International Labour Conference
91st Session 2003

Report VII (1)

Improved security of seafarers' identification

International Labour Office Geneva

International Labour Conference
91st Session 2003

Report VII (1)

Improved security of seafarers' identification

Seventh item on the agenda

International Labour Office Geneva

ISBN 92-2-112885-7
ISSN 0074-6681

First published 2002

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.
Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed in Switzerland

ATA

CONTENTS

	Page
INTRODUCTION	1
Background to Convention No. 108	2
CHAPTER I: *Identification, facilitation, security*	5
Is there a need for a special international seafarers' identity document? What purpose(s) could it serve?	6
Facilities	7
Shore leave	7
Transit (to and from ship) and repatriation	9
Status of the seafarers' identity document vis-à-vis a passport	10
Issuing authority for the identity document	11
Content of the identity document	11
Technical specifications	12
CHAPTER II: *Seafarers' travel documentation and the granting of facilities*	13
Regional arrangements: The Schengen Agreement and Council Regulation (EC) No. 539/2001 of 15 March 2001	13
States' law and practice relating to seafarers' identity documents and the granting of facilities to seafarers	14
Shipowners' and Seafarers' views	17
CHAPTER III: *Certification information*	19
CHAPTER IV: *Authentication, verification, biometric applications*	21
CHAPTER V: *Monitoring and evaluation*	23
ICAO Aviation Security Plan of Action	23
IMO-STCW "White List"	23
CONCLUSIONS	25
Questionnaire	27

ANNEXES

I. Convention No. 108 57

II. Comments by the Committee of Experts on the Application of Conventions and Recommendations on Convention No. 108 61

III. Report of the Consultation Meeting on Improved Security of Seafarers' Identification, Geneva, 9-10 May 2002 64

INTRODUCTION

In response to the terrorist attacks of 11 September 2001, the Assembly of the International Maritime Organization (IMO) at its 22nd Session (19-29 November 2001) adopted a resolution (A.924 (22)) "Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships". The resolution instructed the appropriate bodies of the IMO to review, on a high priority basis, the instruments under their purview to determine if they needed to be updated and if there was a need to adopt other maritime security measures that might be appropriate. It also requested the competent bodies of the IMO "to take account of the work of other international organizations competent in the development of standards for transport-related safety and security by land, air and sea, as well as industry organizations".

In order for action on the resolution to be taken expeditiously, the IMO Assembly decided to convene a Diplomatic Conference on Maritime Security (4-13 December 2002) to amend the appropriate conventions. The IMO is, in particular, considering amendments to its Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, with regard to automatic identification systems for ships; ship and offshore security plans, including provisions on a ship security officer and a company security officer; port facility security plans and port facility vulnerability assessments as far as they relate to the ship/port interface; container security measures; and information on the ship, cargo, crew and passengers.

The ILO has been actively participating in the relevant meetings of the IMO, starting with a working group established in February 2002 on the initiative of the IMO Assembly, since one of the issues considered crucial for improving maritime security is ensuring that seafarers have documents enabling their "positive and verifiable identification" — "positive" meaning that the document holder is the person to whom the document was issued and "verifiable" implying the validation of the authenticity of the document by reference to a source. The kinds of measures involved in properly implementing this concept go beyond the requirements of the relevant ILO Convention, namely the Seafarers' Identity Documents Convention, 1958 (No 108). Seafarers are directly involved in the international transport of goods, including dangerous goods, as well as in the carriage of passengers. They also have access to ports, including restricted areas. While there was a proposal that this issue also be handled by the IMO, it has been agreed in the various competent IMO bodies and in the ILO Governing Body that it could more appropriately be dealt with by the ILO, on the expectation that the new ILO instrument on the subject could be brought into application in the near future. The IMO bodies have made it clear that if the ILO is unable to meet this expectation, provisions covering the seafarers' identity document will be included in SOLAS, 1974, as amended, and brought rapidly into effect under the simplified amendment procedure provided for in that Convention.

In March 2002, the Governing Body at its 283rd Session placed an urgent item on the agenda of the 91st Session (June 2003) of the International Labour Conference, concerning improved security of seafarers' identification with a view to the adoption

of a Protocol to the Seafarers' Identity Documents Convention, 1958 (No. 108). It decided that this question would be governed by the single-discussion procedure and approved a reduced timetable for the preparatory stages of that procedure. Since the question will be examined according to the single-discussion procedure established under article 38 of the Standing Orders of the Conference, the new instrument will be considered with a view to adoption by the Conference at its 91st Session in June 2003. The Office has accordingly produced this report, which ends with a questionnaire including a preliminary draft of possible provisions.

* * *

Background to Convention No. 108

The idea of creating an international identity document for seafarers was first put forward by the International Transport Workers' Federation (ITF) and the United Kingdom Navigators' and Engineer Officers' Union in 1954. ITF wanted the introduction of an international identity document for seafarers, under ILO auspices, which could serve various useful purposes in helping to establish the status of bona fide merchant seafarers in foreign countries.

In 1954, the Navigators' and Engineer Officers' Union "Conference" adopted a resolution which was also submitted to the 1955 session of the Joint Maritime Commission, referring to "the difficulties being experienced with immigration and security regulations in foreign countries" and calling for the introduction of "an internationally recognized seafarer's passport or similar document designed to establish a seafarer's identity as such" and "which would be recognized instantly by immigration officials" worldwide.

The instrument which finally emerged — Convention No. 108 — fell short of the expectations of its sponsors. Instead, the Convention as adopted set uniform international standards for the issuance and content of seafarers' national identity documents and provided for their reciprocal recognition.

Convention No. 108 does not create an international seafarers' identity document; it provides that each State may issue its own national document. States which have not ratified Convention No. 108 but have ratified the IMO Convention on the Facilitation of International Maritime Traffic (FAL '65 — hereinafter referred to as FAL) can issue identity documents meeting the same criteria.

Apart from the limited particulars required under the two Conventions, the document's form and content are determined nationally, and often one State party to the Convention does not even know what the document of another State looks like. Both anecdotal and documentary information submitted to the Office confirm that immigration authorities are often unsure if such a seafarers' identity document is genuine or counterfeit, or whether the State in question has even ratified the relevant Convention. Moreover, at present there is no requirement as to the language(s) in which the document must be written or that the identity document state the sex of the holder.

In 1999 the Committee of Experts on the Application of Conventions and Recommendations reviewed the Seafarers' Identity Documents Convention, 1958 (No. 108),

in its General Report and made detailed comments explaining the operative mechanism of the Convention.[1] The text of Convention No. 108, and the comments of the Committee of Experts are reproduced as Annexes I and II to this report.

Convention No 108 has been ratified by 61 member States representing 60.7 per cent of the world fleet. While it is one of the most widely ratified ILO maritime labour Conventions, the new instrument will have to attract considerably more ratifications so as to achieve the universal acceptance of the SOLAS Convention, referred to above. It is hoped that this aspect will be borne particularly in mind when the questionnaire set out below is answered and that the responses will provide the fullest possible guidance for ensuring worldwide acceptability of each provision to be contained in the new instrument.

In light of the events which have made it necessary to revise Convention No. 108, the preparation of a traditional law and practice report has become problematic as law and practice in many States have recently been — or currently are — in the process of being revised. Most of the information on law and practice in this report was provided during the Consultation Meeting on Improved Security of Seafarers' Identification, held in Geneva on 9-10 May 2002, or transmitted subsequently.

[1] ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Conference, Geneva, 87th Session, 1999, pp. 21-23.

CHAPTER I

IDENTIFICATION, FACILITATION, SECURITY

Following the attacks of 11 September 2001, and in the overall context of transportation security policy and practice, States are reviewing their obligations concerning the facilities granted to seafarers and the identity documents they — as receiving States — will require in order to grant facilities.

Under customary international law, the reception of aliens is a matter of discretion, and every State is, by reason of its territorial sovereignty, competent to exclude aliens from the whole, or any part, of its territory.[1]

In the absence of treaty obligations — which, in any event, contain clauses modifying or suspending obligations for reasons of national security and public order (this is the case with both Convention No. 108 and FAL) — facilities granted by receiving States to foreigners are privileges. In order to provide or maintain these facilities, while at the same time ensuring security, States require a satisfactory level of confidence in the security features of the travel documents they accept. The standardization of identity documents for travel and their "global interoperability" are steps in that direction.

Work on developing a new generation of machine-readable travel documents (MRTDs) started in 1968 at the International Civil Aviation Organization (ICAO) with the establishment of a Panel on Passport Cards. This Panel developed recommendations for a standardized passport book or card that would be machine-readable to accelerate the clearance of passengers through passport controls. The technology retained was optical character reading (OCR). In 1980 ICAO published *A passport with machine-readable capability* (ICAO Document 9303), which became the basis for the issuance of machine-readable passports by Australia, Canada and the United States.[2] The ICAO technical specifications were endorsed by the International Organization for Standardization (ISO) as ISO Standard 7501, which is now the international reference for machine-readable travel documents.

Discussions at the Consultation Meeting on Improved Security of Seafarers' Identification ("Consultation Meeting") held in Geneva on 9-10 May 2002 considered: whether a special identity document for seafarers was necessary; what authority should issue such a document and to whom; the purposes such a document would serve; the information it should contain; and the format or technical characteristics of such an identity document.

---

[1] L. Oppenheim: *Oppenheim's International Law* (London and New York, Longman, 1996), 9th edition, pp. 897-898.

[2] ICAO: *Machine readable travel documents — Technical report — Selection of a globally interoperable biometric for machine-assisted identity confirmation with MRTDs* (2001), p. 3.

Is there a need for a special international seafarers' identity document? What purpose(s) could it serve?

The purpose(s) the document could serve would include facilitating the professional movements already set forth in both Convention No. 108 and FAL (shore leave, transit to/from ship, repatriation); establishing the seafarer's bona fides, in particular for access to welfare facilities in port; and when requesting consular access and consular assistance.[3]

At the Consultation Meeting, submissions addressing this question were received from the International Shipping Federation (ISF) (Annex III, Appendix 3) and the Government of Australia (see below). The Seafarers' group and a number of Governments provided useful information on this issue.

The ISF indicated that since passports and national identity documents did not always state the profession of the holder, an important advantage of a seafarers' identity document was that it established the seafarer's bona fides. It noted that seafarers' identity documents could offer seafarers "helpful treatment at embassies and consulates, airports, customs and port authorities, as well as access to health care in foreign countries and access to seafarers' welfare services". Observing that the majority of ships followed an irregular trading pattern and ports of call were often unknown when a seafarer joined a ship, ISF considered that the reciprocal visa waiver among States parties to Convention No. 108 was a major advantage of the identity document and responded to a clear need in the profession. ISF considered that an international document with a uniform format would clearly assist in the recognition and acceptance of seafarers' identity documents worldwide and "would also be of benefit to employers who commonly employ seafarers of many different nationalities". The Shipowners, however, were concerned that the lack of the identity document should not lead to the detention of ships.

The *Seafarers*, referring to the briefing paper prepared by the Office, expressed their particular concern that to some extent the new security issues had overshadowed the primary objective of seafarer identification: to establish the bona fide status of the seafarer in order to grant certain facilities so that he/she could effectively perform his/her work under decent conditions. They considered that the subject was highly political and sensitive and wanted all to remember that the discussion was about seafarers going about their normal work. The Seafarers wanted the information on the identity document limited to that already provided for under Convention No. 108, and said that data privacy must be respected, particularly as regards religious and political beliefs, health data, trade union activities, and sexual orientation. The identity document should serve above all as a global visa waiver for the facilities set forth in Article 6 of Convention No. 108.

The Government of *Australia* noted that visa arrangements for ships' crew (the special purpose visa) were extraordinary and fell within the provisions of subsection 33(2) of the Migration Act and regulation 2.40 of the Migration Regulations. Merchant mariners were a class of persons taken to hold special purpose visas only while they retained their status as crew. Under the heading "Imminent changes to entry

[3] *The Vienna Convention on Consular Relations*, 1963, Article 5(1), defines the consular function as, inter alia, providing assistance to ships' crews.

processes", the paper described the introduction of an advanced passenger processing system whereby the crew member or shipowner would have to obtain a crew travel authority (CTA) several weeks prior to arrival in Australia. A similar procedure already existed for tourists. The Government cited a number of weaknesses with national seafarer identity documents — including their generally poor quality and the ease with which they were forged; the documents generally contained fewer details than passports and often lacked expiry dates. Even when there were expiry dates, prolongation was relatively easy; however, the information contained in the booklet was not updated (i.e. it contained photos decades old) and the document generally deteriorated with age. It noted further problems of variance with personal data contained in the person's passport, including transliteration of ethnic names, as well as the problem of confirming nationality when documents were issued to foreign seafarers. In concluding, it noted that "the problems highlighted above make it impossible to accept seafarers' identity documents issued by a number of countries" and emphasized that it wanted exclusive use of passports as documents for merchant crew.

The *Netherlands* wanted to know if absence of the document would prevent seafarers from obtaining employment.

Norway considered that a purpose of the document was to identify the holder as a seafarer.

The *International Christian Maritime Association (ICMA)* stated that an internationally recognized seafarers' identity document would be of great help in cases of abandonment and that the document should be able to be stamped by the port authority indicating that the seafarer had been abandoned.

Discussions at the IMO in the framework of the Maritime Safety Committee on the subject of seafarers' identification highlighted three principal requirements that should be satisfied by any revised document. It should be a document for professional purposes; a verifiable security document; and should contain certification information. As far as the function of a security document was concerned, IMO considered that information related to the seafarer's qualifications would provide verifiable evidence of the holder's occupation as a seafarer and his/her bona fides to hold a seafarers' identification document.

FACILITIES

Shore leave

Shore leave is one of the most time-honoured maritime customs,[4] and is undoubtedly one of the most vital elements of the seafarer's well-being in terms of living and working conditions.

[4] The facilitation of trade through granting privileges and protection to merchant seamen dates back at least to the Middle Ages. In the twelfth century, the need to ensure sea transport for the wine trade between France and England led to the codification of certain obligations to seafarers, including facilities such as shore leave. These texts, known as the *Rôles of Oléron* (France), are accepted as the foundation of all European maritime codes and formed the *lex mercatoria* of the Middle Ages. Similar provisions concerning temporary shore leave form part of the fourteenth-century Hanse or Wisby sea laws.

The essential facility provided for under Article 6(1) of Convention No. 108 is shore leave.[5] As the Committee of Experts has noted, shore leave is the primary purpose of the document and is the minimum undertaking of States parties to Convention No. 108. When the document is used for shore leave, it serves as an identity card and a landing card, and is the sole identity document required for this purpose. Shore leave is an exceptional facility according to which ships' crew arrive and depart with their vessel, but may go ashore while the ship is in port. Holders of identity documents issued pursuant to Convention No. 108 and FAL are not required to have a visa to take shore leave. Similarly, in the case of airline flight crew who retain their professional identity document — the Crew Member Certificate (CMC) — when embarking and disembarking, the contracting State shall accept the CMC for temporary admission and shall not require a passport or visa.[6]

Shore leave, however, is under threat both in law and in practice. Changing immigration regulations in receiving States, including the imposition of individual or collective crew visas and immigration pre-clearance requirements, create legal obstacles and expenses for what could be a very brief or uncertain shore leave. Unexpected changes in ships' itineraries and seafarers moving to join other ships can make it impracticable to meet these requirements. In the case of individual visas, it is standard consular practice to require visas to be issued in the State of the seafarer's nationality or domicile, which may be difficult for many seafarers. The validity of a visa is generally set on a reciprocal basis with nationals of the receiving State, so that with a multinational crew some seafarers might not require visas, while others would receive visas of different periods of validity according to their nationality.

Apart from the legal complexities, with advanced cargo-handling technology and ports working 24 hours/day, there has been a dramatic decrease in "turnaround time" of ships (the time a ship is in port). According to a recent survey, in 1970 only 1 per cent of ships in a given port spent less than 12 hours. By 1998 this had risen to 27 per cent. In 1998, 45 per cent of ships spent 12-24 hours in port, 70 per cent turned around within 24 hours, and only 4 per cent of ships remained in port more than three days.[7]

The same study refers to a decline in crewing levels with increasingly intense workloads while ships are in port. The remoteness of ports from cities and problems of criminality in port zones are further obstacles to shore leave.

Lack of shore leave means confinement on ships, and when considering that modern seafarers spend three-quarters of their working lives away from their families,

---

[5] The FAL Convention defines shore leave as "permission for a crew member to be ashore during the ship's stay in port within such geographical or time limits, if any, as may be decided by the public authorities". Article 6(1) of Convention No. 108 refers to entry for temporary shore leave while the ship is in port. The corresponding facility for aircrew is "temporary admission" — both terms reflecting the temporal and spatial limitations imposed on crew whose legal basis for their stay is status as a crew member on active service.

[6] Convention on International Civil Aviation (Chicago Convention), International Standards and Recommended Practices on Facilitation, Annex 9, Standard 3.24. However, the Certificate should be a machine-readable card or issued in the same layout as the visual zone of the machine-readable CMC.

[7] E. Kahveci: *Fast turnaround ships and their impact on crews* (Cardiff, SIRC Publications, 1999), cited in: ILO: *The impact on seafarers' living and working conditions of changes in the structure of the shipping industry*, report for discussion at the 29th Session of the Joint Maritime Commission (Geneva, 2001) (doc. JMC/29/2001/3), pp. 72-74.

what could be considered as amenities for some are vital necessities for others. Shore leave is often the only opportunity for seafarers — particularly ratings — to contact their families and to receive social services. These facilities, in both legal and practical terms, have become problematic; they are essential to the seafarers' well-being and ability to perform his or her work.

In a joint submission to the May 2002 session of the IMO Maritime Safety Committee, Australia and New Zealand warned that:

> Consideration should also be given to the welfare implications for seafarers of enhanced security arrangements in ports. If seafarers are unable to meet the port State's requirements for appropriate identity documentation, it is possible that such seafarers will not be permitted to go ashore for recreation or other purposes such as medical treatment. Confinement to ship or an isolated port facility for long periods will have adverse effects on seafarer welfare and may add to fatigue problems in the longer run, with obvious safety implications.

The most extreme scenario resulting from denial of shore leave has already been seen and was documented in 1955 in an article by the United Nations High Commissioner for Refugees, published in the *International Labour Review*.[8] The article refers to case records of refugee seafarers who had no papers or expired papers and for more than three years never left their ship until their dramatic circumstances finally came to the attention of the Office of the United Nations High Commissioner for Refugees (UNHCR). The danger of prolonged confinement on board ship ultimately inspired the drafting of Article 9 of the 1957 Hague Agreement relating to Refugee Seamen.[9]

While not equating the exceptional and extreme circumstances of refugee seafarers with the distress of seafarers denied shore leave now or in the future, the dangerous situation of prolonged confinement on board ship cannot be ignored in the search for a global solution to the facilitation question.

Transit (to and from ship) and repatriation

Transit and repatriation are professional movements within the scope of immigration admission, albeit temporary. For this reason, Article 6(2) of Convention No. 108 requires these facilities to be granted on the condition that the identity document contains space for appropriate entries.

Greece, pursuant to Ministerial Decision No. 4803/13/10 of 5 May 2000 on conditions and procedures for entry and exit of foreign seafarers in cases of recruitment and discharge, provides under article 2 that for entry, the seafarer must have a Schengen visa specifying the name of the vessel, the flag, and the ship registration number. At least two days prior to the entry of the seafarer in the Schengen zone, the shipowner or agent must provide two documents to the Greek passport control of the port where the ship is located: a statement confirming recruitment of the foreign seafarer and guaranteeing all expenses and liability for repatriation, for whatever reason; and a certificate from the local Coast Guard that the ship is not detained or under arrest. For transfer to another ship administered by the same company, the passport control issues a transit

[8] G.J. Van Heuven Goedhart: "Refugee seamen", in *International Labour Review* (Geneva, ILO), 1955, Vol. LXXII, Nos. 2-3.

[9] Article 9: "No refugee seaman shall be forced, as far as it is in the power of the Contracting Parties, to stay on board a ship if his physical or mental health would thereby be seriously endangered."

visa, provided all the documents in Article 2 *(supra)* are produced. For repatriation (Article 8) passport control issues a transit visa for the time required for exit (maximum five days) on presentation of ticket, a statement from the shipowner assuming liability for repatriation and Coast Guard certification that the seafarer was an active crew member.

Depending on the nationality of the seafarer, a visa may be required for entry in the *Netherlands*. A Schengen visa is issued at the embassy of the Netherlands after confirmation that the ship and employing company exist and indicating the port of call. The agent or manning agent is required to sign a guarantee for possible claims in and by the Netherlands, the seafarer's passport is stamped and he is directed to the ship's agent who must transport the seafarer to the ship. For departure/repatriation, the ship's agent has to report to the border control authorities *(Koninklijke Marechaussee)* that a seafarer is signing off and is to be repatriated. The ship's agent must sign a guarantee assuming liability for possible financial claims and must produce the ticket and travel document enabling the seafarer to enter that destination. The guarantee stays with the border authorities. Although the Netherlands has not ratified Convention No. 108, the seafarers' identity document may be used as a travel document. Thereafter, the agent takes the seafarer to the airport; at no time is a police guard involved.

STATUS OF THE SEAFARERS' IDENTITY DOCUMENT VIS-À-VIS A PASSPORT

Australia and *New Zealand* considered that it was the function of a passport to facilitate or permit entry across a border and that an alternative document (issued under Convention No. 108 or STCW 95) should not be used on its own for this purpose.

Benin questioned whether the seafarers' identity document would replace the passport and whether it could be used for private travel.

Denmark considered the seafarers' identity document as a substitute for a passport with the added value of facilitating and expediting the entry of seafarers as compared with other persons.

France considered that the seafarers' identity document should be a self-standing travel document valid for limited purposes (professional movements) and that any complementary character with the passport should be optional.

Japan indicated that only Japanese seafarers receive a seafarers' identity document; foreign seafarers received a document which did not confirm identity, for which they must use their passport.

The *Netherlands* considered that the seafarers' identity document should not be sufficient for the professional movements the seafarer needs to carry out and that it should be accompanied by the passport for travel.

Panama considered that a seafarers' identity document could not replace a passport or be a substitute for a visa.

Portugal indicated that the seafarers' identity document functioned as a self-standing travel document for seafarers.

The *Office of the United Nations High Commissioner for Refugees (UNHCR)* recalled that for refugees, references to the national State would necessarily be replaced by the State granting asylum, and that references to the passport would be replaced by the travel document indicating that the bearer had the status of a refugee, as provided in the relevant international instruments.

Issuing authority for the identity document

Given the need to certify the nationality of the holder, there was broad agreement among Seafarers, Shipowners and most Governments that in practical terms this could only be done by the State of nationality of the seafarer.

The following Governments present at the Consultation Meeting wanted the document to be issued nationally only to nationals: *Brazil, China, Denmark* (raised the question of issuing documents to resident aliens), *France, Germany, Greece, India, Japan, Norway, Portugal, Russian Federation, Tunisia* and *Turkey*.

Panama, Liberia and the *Marshall Islands*[10] issue identity documents to foreign seafarers.

Liberia and *Cyprus* indicated that current practice was to issue all seafarers with a flag State identity document in order to enter qualifications.

Liberia accepted that it cannot positively identify foreigners and that the system must change, probably by accompanying a seaman's identity book with a passport.

Content of the identity document

Argentina indicated that it required a seafarers' identity document to establish the sex of the holder.

Cyprus and *Panama* stated that they included sea service records in the identity document.

France considered that this was a professional travel document and as such should contain only professional data.

Germany considered that the document must include identity and professional qualifications.

Latvia pointed out that it included seaman's qualifications, training and next-of-kin information in its document.

The *Marshall Islands* indicated that the "Seafarers' Identification and Record Book" contained the Special Qualifications Certification and record of sea service.

Norway wanted a uniform format for the document with a specified period of validity. Biometric templates could be considered if seafarers' reservations were taken into account. With regard to data protection laws, only the most basic data should be included.

Tunisia considered the identity document as both a travel document and a professional document which should include certification, experience, aptitude, sea service and medical information. The training information would facilitate embarkation on foreign flags.

The *United States* considered that the following elements must be contained in the document or in the system supporting the document: digital photo, holder's signature, issuing authority, proof of nationality, positive identification of the mariner's qualifications, permission to enter other countries, and biometric templates.

[10] The Republic of the Marshall Islands is not an ILO member State.

TECHNICAL SPECIFICATIONS

China indicated that, as was the case with the *Russian Federation* and *Japan*, it considered the use of a biometric template problematic.

Japan indicated that it did not include biometrics in its national identity documents. If such a requirement were imposed on seafarers, there could be lawsuits alleging discrimination. Unlike airports, which in Japan were restricted zones, ports were open areas and there could be no legal basis for the different treatment of seafarers.

The *Netherlands* considered that *if* biometrics were adopted it should be according to ICAO standards and the identity document should be in credit card form.

Portugal considered that the fingerprint (biometric) was essential, in particular, because — as Japan had noted — ports were at present open spaces and there was need for security. Portugal did not want a magnetic card because it needed pages for entry/exit stamps to show where the person had been. Pages were also needed for work visas in the case of cabotage.

The *Russian Federation* considered that the new instrument would be difficult to ratify if biometrics were included because the national legislation authorizing biometrics concerned peril and recognition by rescuers and applied to aircrews and not seafarers.

Tunisia noted that biometrics were not used in its passport and had doubts about its use in the seafarers' identity document.

The *United Kingdom* supported the inclusion of biometrics in the identity document and considered that no data was worth having if it was not verifiable.

The *United States* considered that security improvements to seafarer identification must include positive and verifiable identification, meaning that the document holder is the person to whom the document was issued, and that the authenticity of the document can be validated by a source. This would require development of a standard that was universal (ensured consistent application), acceptable (convenient, user-friendly, cost effective, and did not impair commerce), reliable, secure and interoperable (allowing for exchange of information among States and for verification and validation). The document must work in a practical environment and be secure. The system must be resistant to compromise. The document should use a biometric template (a digital representation of a biometric, such as a fingerprint or a photograph that cannot be reverse-engineered to reproduce the original biometric) as opposed to a biometric per se. This was a guarantee for privacy concerns. The template should be developed according to ISO standards and be used in conjunction with other elements such as a reference number, name, card number and issuing authority, and operate both online and offline.

CHAPTER II

SEAFARERS' TRAVEL DOCUMENTATION AND THE GRANTING OF FACILITIES

REGIONAL ARRANGEMENTS: THE SCHENGEN AGREEMENT AND COUNCIL REGULATION (EC) NO. 539/2001 OF 15 MARCH 2001

The Schengen Agreement is the European Union (EU) framework setting uniform immigration regulations for 15 European States.[1] It is a text of general application and does not contain special provisions concerning seafarers. Schengen creates a common external land, sea and air border, while abolishing internal border controls among the participating States. Although two EU States (Ireland and the United Kingdom) have "opted out" and do not form part of the Schengen zone, the Agreement is included in the Treaty of Amsterdam and forms part of the *acquis communautaire*, meaning that candidate States for admission to the EU are required to accept its provisions.

Article 5, paragraph 2, of Schengen requires that aliens who do not meet all immigration conditions must be refused entry, unless a Contracting Party considers it necessary to derogate from that principle due to, inter alia, international obligations. Such would be the case for States parties to Convention No. 108 or FAL. Of the 15 States in the Schengen zone, all are parties to FAL and 11 have ratified Convention No. 108.[2]

Council Regulation (EC) No. 539/2001 of 15 March 2001 lists the third countries whose nationals must be in possession of visas and those exempt from the visa requirement when crossing external borders. Article 4(1)(b) and (d) allow visa waivers — regardless of nationality — for civilian air and sea crew and civilian crew of ships navigating in international waters. In practice, these texts are the legal basis for granting visa waivers to seafarers on active service status entering the Schengen zone.

The EC Regulation, however, is permissive: it *allows* Schengen States to grant facilities, but does not require them to do so, nor does it create rights for individuals. In legal terms, it facilitates facilitation. If granted, the visa waiver can be for all or some of the facilities set forth in Convention No. 108 or FAL — at the discretion of the receiving State. The *Netherlands*, for example, grants a visa waiver for shore leave to seafarers who are nationals of States normally requiring a visa, but requires a Schengen visa for transit and/or repatriation. This further illustrates the exceptional character of shore leave as opposed to "entry" or "immigration admission".

---

[1] The Schengen Contracting Parties are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain and Sweden. Norway and Iceland, as non-EU Member States, are Associate Members of Schengen.

[2] Austria, Belgium, Germany and the Netherlands have not ratified ILO Convention No. 108.

STATES' LAW AND PRACTICE RELATING TO SEAFARERS' IDENTITY DOCUMENTS AND THE GRANTING OF FACILITIES TO SEAFARERS

In *Brazil*, article 2 of Law 8,490 of 19 November 1992 (Regulations concerning foreign crew embarkation) provides for a visa waiver when crew hold a seafarers' identity document.

China indicated during the Consultation Meeting that it has ratified FAL and applies its provisions.

Cyprus issues every seafarer with a "Seafarers' Identity and Sea Service Record Book" containing the same security features as a passport. The book is issued against credible documentary evidence of identity and that the person is a seafarer. Each seafarer has a unique code number which could be transformed into an international code if Cyprus ratified the new instrument.

Germany indicated that it was unable to ratify Convention No. 108 because the immigration authorities would not recognize the right of return on an expired document, as required under Article 5(2) of the Convention.

The *Netherlands* has ratified FAL but not Convention No. 108. One of the obstacles to ratification is that in the Netherlands there is the possibility of suspending a passport by court order for serious offences, but this would not be possible with a Convention No. 108 seafarers' identity document. There is the further problem that one person could then have two travel documents and a citizen whose passport had been suspended could still leave on a seafarers' identity document. This difficulty is compounded in that the Convention No. 108 identity document is not required to have an expiration date. Netherlands seafarers are issued a Master Book *(Monstrboekje)* which is a professional book of sea service and other records; it is not an identity document. This book is kept by the master while seafarers keep their passport (which does not mention profession). Recently issued Netherlands passports are machine readable. The Netherlands reported that its procedures regarding landing of seafarers were set forth in national instructions issued by its immigration and naturalization services (IND). For shore leave, seafarers on the crew list were allowed to land for shore leave in the Netherlands without any documentation. There was no requirement to produce a passport or a seaman's book or to be in possession of a shore pass. Seafarers on shore leave were completely free to move within the city limits where the port was located and in neighbouring cities.

Panama considered that an identity document was a record of service that identified the capacity of the seafarer as an officer or rating and had specific information which must be the same worldwide.

The *Philippines* issues a seafarers' book which looks like a passport; it agreed that a credible international seafarer document would be of interest. With a shipboard labour force of 500,000, it had not encountered problems with crew documentation, but was open to a new system.

The *United States* has not ratified Convention No. 108 and has ratified FAL with a notification to the effect that crewmen must hold a valid visa for application of entry.[3]

[3] Italy and Spain, which have ratified Convention No. 108, have entered notifications under FAL that visas for shore leave could not be waived; France, also a party to Convention No. 108, reserved the right to require a visa for shore leave on a reciprocal basis if French seafarers were required to hold a visa.

The United States regards a visa only as permission to apply to enter, issued by the consular services; the decision to grant admission is made by the Department of Justice at the point of entry. The applicable United States legislation is the Immigration and Nationality Act [8 U.S.C. 1101] which requires crewmen serving on a vessel or aircraft proceeding to the United States to hold a valid individual D visa (crew member visa) or to be included in a crew-list visa. Section 41.42(d) of the Act specifies that a crew-list visa is valid for six months from issuance and for a single application for admission into the United States. The validity of the passport must be at least six months beyond the planned stay. However, new legislation, the Enhanced Border Security and Visa Entry Reform Act (Public Law No. 107-173) was enacted on 14 May 2002. In particular, Title III of the new Act, "Visa issuance", amends the Immigration and Nationality Act; section 302 sets forth technology standard and interoperability requirements respecting development and implementation of the integrated entry and exit data system and related tamper-resistant, machine-readable documents containing biometric identifiers. The deadline for implementing these requirements is 26 October 2004. Section 303(c) "Technology standard for visa waiver participants" requires States, in order to maintain programme participation, to certify by 26 October 2004 that they have a programme to issue nationals machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with applicable biometric and document identifying standards established by the International Civil Aviation Organization (ICAO). Section 402 amends the Immigration and Nationality Act to: (i) require commercial aircraft or vessels arriving at, or departing from, the United States to provide United States border officers (as defined by this Act) with specified passenger, other occupant, and crew manifest information; (ii) prohibit carrier entry until such information has been provided; (iii) provide monetary and non-entry penalties for non-compliance; (iv) require electronic manifest transmission by 1 January 2003; and (v) provide the Attorney-General with waiver authority. Section 604 states that this Act shall not be construed to impose requirements that are inconsistent with the North American Free Trade Agreement (NAFTA), or to require additional documents for certain non-immigrant emergency or in-transit aliens for whom documentary requirements are waived.

With regard to facilities in *Japan*, the Immigration Control and Refugee Recognition Act, 1951, as amended, provides in article 16 (Landing permission for crew) that, on application of the captain of the vessel or the carrier operating the vessel, an immigration inspector may grant landing to foreign crew for less than 15 days for resting, shopping or transferring to another vessel. Article 16(4) provides that in granting landing permission the immigration inspector may impose restrictions as to the period of landing, area of movement, route in transit, and may require a fingerprint to be taken. A crewman's landing permit valid for one year with multiple entries may be granted to foreign crewmen working on vessels on regular service to Japan.

Norway recognizes seafarers' identity documents (sea service books) issued by the competent authority in the State of which the seafarer is a national and which grant a right of return to that State. If the document is issued pursuant to Convention No. 108, mention of the nationality of the holder is not obligatory as Norway has noted the conventional obligation under Article 5 of the right of return to the issuing State. There is no condition as to the language in which the document is written, but the passport control authority can require a translation. The facilities which Norway grants are those set forth in Convention No. 108 and FAL: shore leave, joining a ship,

transferring to another ship, transit and repatriation. Under the Immigration Regulations issued pursuant to the Immigration Act No. 64 of 24 June 1988, as amended, the following categories — relevant to seafarers — are exempt from the visa requirement (section 105):

(f) the holder of a refugee travel document in accordance with the Convention relating to the Status of Refugees of 28 July 1951 (when there is entitlement to return to the issuing State);

(g) the holder of a refugee travel document issued pursuant to the Agreement relating to Refugee Seamen of 23 November 1957 (with right of return to the issuing State);

(h) the holder of a seafarers' identity document issued in accordance with Convention No. 108;

(j) the holder of a Philippine "Seafarer's Identification and Record Book" and/or a Philippine national passport.

The *Marshall Islands* administration has a uniformly administered policy of screening applications for Seafarers' Identification and Record Books, Officer Certificates of Competency and Special Qualification Certificates which it considers essential to the success of its Seafarers' Identification and Certification System. To this end, a system of Administration vetted and approved Receiving/Filing Agents processes the applications. A manual prescribes the essential functions that must be performed by the Receiving/Filing Agent. This uniform policy of screening is especially important when application is being made for a Seafarers' Identification and Record Book, which is an official identification document of the Republic of the Marshall Islands.

The *Marshall Islands* indicated that its Seafarers' Identification and Record Book conforms to the requirements of Convention No. 108. The document was issued to seafarers of Marshall Islands flag vessels for use when travelling to or from an assigned vessel or pursuant to the instructions from the master of such a vessel. It was also used to hold the Special Qualifications Certification issued to the seafarer by the Administration and to maintain a seafarer's personal record of sea service. The books were prepared from a secured computerized database and centralized record-keeping system. The bound book was perforated with a number through the front and back covers and each page for inventory control and tracing purposes and fully identified the individual with personal information laser printed from the database on to two permanent pages. The seafarer's photograph was digitally scanned into the database and colour printed on to a permanent photo page, which was then laminated in plastic to prevent tampering. For verification purposes, the Marshall Islands Administration made the full database of Officer Certificates of Competency, Seafarers' Identification and Record Books and Special Qualifications Certification available through its web site on the Internet. By means of this web site, interested parties might research the validity of any Marshall Islands-issued certification or documentation in the possession of a seafarer and also review a list of fraudulent certificates detected by the Marshall Islands Administration. The web site was updated weekly.

The Maritime Administration of *Latvia* introduced new technology in May 2002 (holographic data; ink jet printer; scanned photo and signature of the holder; machine-readable data) to protect against forgery in preparing its Convention No. 108 seafarers' identity document, known as the Seaman's Discharge Book. Information on training and qualifications as well as the seafarer's next-of-kin is included in the identity document.

The Ministry of Transport of *Tunisia* delivers two kinds of seafarers' identity documents to its nationals. The Seafarers' Professional Book *(Livret Professionnel des Gens de Mer)* is issued to professional seafarers who have completed at least 12 months of effective sea service. This identity document includes the seafarer's name, photograph, nationality, domicile, rank, signature, fingerprint, sea service record, recruitment, discharge and payment of repatriation costs, and is visaed by the maritime authority. It also contains training and certification information, which the administration considers important for seafarers to work on foreign flag ships. The identity document and sea service record also contains dates and results of required medical examinations. The validity of the document is five years and can be extended once for a further five years, after which a new document must be created. A Seafarers' Identity Declaration *(Déclaration d'Identité des Gens de Mer)* is given to seafarers with less than 12 months of sea service, such as those who work occasionally or intermittently, for example during the tourist season, or for officer cadets during summer vacation. It is issued in the form of a card with a maximum validity of one year. Both documents are issued as Convention No. 108 seafarers' identity documents.

Malta, pursuant to section 234 of the Merchant Shipping Act, issues the Maltese Seaman's Card only to its nationals who are seafarers. Under section 201 *(Surrender of seafarer identity document on ceasing to be a Maltese seaman)*, the card must be surrendered to the Registrar on ceasing to be a Maltese seaman; likewise, the Registrar-General can take the initiative and require surrender of the card. Under section 200 of the Act *(Possession of more than one seafarer identity document)*, a Maltese seaman who has more than one seaman's identity document (Maltese or foreign) must produce and surrender to the Registrar-General one or more of the Maltese seaman's cards. This is an interesting feature as documents can generally be withdrawn only by the authority that has issued them. Under the Maltese regulation, nationals would lose their national document, while retaining a foreign document. Such a provision could dissuade persons from obtaining both national and foreign identity documents, to the extent that seafarers' identity documents continue to be issued to foreigners.

Shipowners' and Seafarers' views

At the Consultation Meeting, both Shipowners and Seafarers insisted on the importance of the visa waiver provision of an internationally standardized and recognized seafarers' identity document. As previously mentioned, the Shipowners' views were submitted as a paper (Annex III, Appendix 3), to which reference has been made. Their concern, however, was that the lack of an identity document should not constitute grounds for ship detention.

The Seafarers' group recognized that there were legitimate concerns regarding security, and agreed that positive identification and verification — nothing more and nothing less — was all that was necessary. They expressed a number of concerns, not least of which was that people whose working and living conditions were already very difficult should be made to feel as if they were criminals (based on the kind of information required for their identity documents), and that the identity document might not facilitate shore leave without, for example, security guard escorts.

There was particular concern regarding data protection and privacy rights. The Seafarers wanted an identity document which was machine-readable, of an interna-

tional standard format, with no data storage in bar codes, chips or magnetic strips. A national database should be available for checking individual documents in compliance with privacy legislation. The document should be issued by the State of nationality or, in exceptional cases, the State of residence. The Seafarers considered that the purpose of the document was for shore leave, transit and repatriation and the information on the document should be limited to that in Convention No. 108. As to quality control and oversight, the Seafarers felt that the ILO should be able to set up a "White List" audit comparable to the IMO and an oversight system comparable to ICAO.

CHAPTER III

CERTIFICATION INFORMATION

As far as certification information is concerned, IMO wanted to ensure that it would be possible (if considered necessary by maritime administrations) to include information of a seafarer's certification on the document as proof of his/her status as a seafarer and as a further check against the use of fraudulent certification.

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended, establishes minimum standards of seagoing service, age, medical fitness, training, qualification, examination, assessment and competence that have to be met for the issue of any certificate required under the Convention. Seafarers must hold certificates as evidence of having met the Convention requirements in order to serve on board ship in any capacity for which a prescribed standard of competence has been established. Any STCW Party may issue certificates and endorsements to persons of any nationality who meet the requirements, unless its Government has chosen not to do so as a matter of policy.

Under the STCW Convention a certificate is defined in Article II(c) as being a valid document, by whatever name it may be known, issued by or under the authority of the Administration or recognized by the Administration authorizing the holder to serve as stated in this document or as authorized by national regulations. In this case, the Administration means the Government of the Party whose flag the ship is entitled to fly.

Certificates for masters and officers shall be endorsed by the issuing Administration (Article VI(2)) and, where an Administration recognizes a certificate issued by another STCW Party for service on its ships, an endorsement must be issued to attest its recognition (regulation I/2, paragraph 5). Masters and officers may therefore hold recognition endorsements issued by a number of Administrations for service on their ships. Certificates and endorsements may be issued as separate documents (regulation I/2, paragraph 6) and the originals are required to be carried on board the ship on which the holder is serving (regulation I/2, paragraph 9). Every master, officer or radio officer holding a certificate is required, every five years, to establish continued professional competence (regulation I/11, paragraph 1) in order to continue to qualify for sea service. Evidence of meeting this requirement is demonstrated through revalidation of certificates and endorsements every five years. A certificate which has not been revalidated or endorsed cannot be accepted for service on board.

In circumstances of exceptional necessity (as regards the master or chief engineer only in cases of *force majeure*), a seafarer may be issued with a dispensation by the Administration (Article VIII). Dispensations shall only be granted to a person properly certificated to fill the post immediately below or, where certification is not required, a dispensation may only be issued to a person with equivalent qualification and experience.

STCW parties are required to establish processes and procedures for the impartial investigation of any reported incompetency, act or omission that may pose a direct threat to safety or the environment by holders of certificates and endorsements and may withdraw, suspend or cancel such certificates (regulation I/5).

The formats for certificates of competency and endorsements set out in section A I/2 of the STCW Code include, in addition to details relating to the holder's competence; capacity and limitations on service; details of revalidation, etc., the following details related to the seafarer: name, signature, date of birth and a photograph.

CHAPTER IV

AUTHENTICATION, VERIFICATION, BIOMETRIC APPLICATIONS

Biometrics — the use of a physiological or behavioural characteristic unique to each individual — is the universal standard retained by ICAO for positive and verifiable identification. This includes fingerprints, signature verification, hand geometry, voice recognition, iris and retina patterns, and facial recognition. The specific biometric parameter to be retained as the international reference standard is at present under review by ICAO. It will evaluate the results based on findings from Member States and make a final determination on which biometric technology will be standardized for machine-assisted identity confirmation with MRTDs. While the goal is to adopt a single biometric for standardization, two biometrics may be required to address the full range of comprehensive needs defined for machine-assisted identity confirmation for MRTDs. ICAO will develop the necessary specifications to reflect standardization of a globally interoperable biometric technology to be published in an update to ICAO document 9303.[1]

The unique biometric credentials must initially be enrolled through a secure procedure so as to prevent people claiming the identity of another (identity theft) or multiple enrolment and acquiring more than one identity. The sample data is stored on a biometric template based on the identity claimed and accepted (name) at the time of enrolment.

Verification is the comparison of the biometric sample with the claimed identity. Verification is the process used for bank transactions, internet sales, benefit payment systems, border control in the United States (INSPASS) allowing voluntary enrolment using biometric verification in order to bypass long immigration lines and facilitate boarding gate identity check at airports, and carry out other security-related functions.

The International Civil Aviation Organization (ICAO) has taken the lead in developing machine-readable travel documents (MRTDs). It has done so in close cooperation with the International Organization for Standardization (ISO). Machine-readable travel documents (passports, visas, official identity documents) follow a standardized layout to facilitate reading of data on a global basis by both eye readable and machine readable means to ensure global interoperability. The standards are contained in ICAO document 9303.[2] The most common MRTD is the passport, a standard sized ID book containing pages with information on the holder and issuing State along with pages for visas and other endorsements. The passport MRTD can also be a free-standing card. The identity document for air crew is issued in accordance with Technical Specifications for a Machine-readable Crew Member Certificate (CMC).

---

[1] ICAO: *Machine readable travel documents technical report: Selection of a globally interoperable biometric for machine-assisted identity confirmation with MRTDs* (2001) p. 34.

[2] ICAO: *Machine-readable travel documents*, Part 3 (2002), document 9303.

The ICAO baseline technology is the optical character recognition (OCR) machine-readable zone; this is the mandatory minimum required for global interoperability. The standard OCR technology can be expanded to "coexist" with the optional use of bar codes, magnetic strip, optical memory and/or integrated circuit in a plastic card. Within this expanded storage capacity, an encoded biometric to confirm the holder's identity or other data to verify the document's authenticity may be carried on the card. The standardized Optical Memory Card can store large amounts of data and is used in the health-care sector to store patient medical records, including X-rays, which require a large storage capacity.

The format of the MRTD is seven zones which group data elements. Zones I-VI are eye-readable "visual inspection zones" (VIZ). Zone VII is only machine readable. The general layout of the zones is:

I. Mandatory header (identifies the State or organization responsible for issuing the document).

II. Personal data (mandatory + optional).

III. Document data elements [type or designation of document; ex: AC for Crew Member Certificate (CMC) — the identity document for air crew].

IV. Holder's signature or usual mark (mandatory).

V. "Identification feature" (photo) — mandatory.

VI. Optional data elements.

VII. Machine-readable zone (MRZ) — for a passport this consists of two lines, 44 characters each using optical character recognition (OCR) text, header with standard three-letter code for issuing State/organization and nationality.

Point 7 of document 9303 (Purpose and properties of the MRZ) states that the MRZ is a different representation of the data than is found in the VIZ. It must be stressed that the MRZ is for data intended for international use in conformity with international standards for MRTDs. In consideration of national privacy laws, the data in the MRZ must be visually readable as well as machine readable.

CHAPTER V

MONITORING AND EVALUATION

During the Consultation Meeting, there was a commonly shared view concerning the need for a monitoring mechanism to ensure the credibility of systems for the issuance of seafarers' identity documents. Reference was made to the IMO White List and the ICAO audit system and it was also suggested that consideration should be given to other current methods. The view was further expressed that there should be an information exchange system parallel to a monitoring system, and that the exchange of information for verification should be done on a timely basis. Information on the ICAO audit system and the IMO "White List" is provided below.

ICAO Aviation Security Plan of Action

At the ICAO High-Level Ministerial Conference on Aviation Security (AVSEC) in February 2002, the Conference recommended that ICAO establish a comprehensive programme of universal, regular, mandatory, systematic and harmonized aviation security audits, beginning in 2003. The audits will be based on a process established under the auspices of ICAO's AVSEC Mechanism using ICAO trained and certified audit teams which are headed by an ICAO staff member, and which consistently apply fair and objective methods to determine compliance with Annex 17 (Security) to the ICAO Convention.

In developing the audit programme, which should be transparent and autonomous, ICAO should ensure the greatest possible coordination and coherence with audit programmes already established at the regional or subregional level.

A compliance mechanism should be built into the programme, which will delineate between minor and serious areas of improvement, and ensure that immediate corrective action is taken for serious deficiencies and provide developing States with the necessary assistance to measurably improve security.

All States will be notified of a completed audit. ICAO will be the repository for full audit reports and the sharing of audit reports between States will take place on a bilateral or multilateral basis.

States will undertake to provide ICAO with national aviation security findings based on a harmonized procedure to be developed by ICAO.

IMO-STCW "White List"

The Regulations of the STCW Code (section A-I/8 on quality standards) provide that the parties are to specify clear objectives and quality standards covering the subject matter of the Convention, including administration of the certification system. They must also ensure that an independent evaluation of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the adminis-

tration of the certification system, is conducted at intervals of not more than five years. In addition, Regulation I/7 of the STCW Convention, "Communication of information", provides, inter alia, that each party is to provide the Secretary-General of the IMO with such information as may be required by the STCW Code on steps to be taken by the party to give the Convention "full and complete effect". In preparing the above report to the Maritime Safety Committee, the Secretary-General shall solicit and take into account the views expressed by competent persons selected from a list established in accordance with the Regulations. When complete information has been received, the Secretary-General shall submit a report to the IMO Maritime Safety Committee identifying the parties which are considered to have demonstrated that "full and complete effect is given to the provisions of the Convention". Other parties are then, in principle and subject to provisos, entitled to accept the certificates of those parties as being in compliance with the Convention. This identification has become widely known as the "STCW White List".

CONCLUSIONS

For some time the Committee of Experts has had to consider two fundamental issues in the context of Convention No. 108: the determination of who is a seafarer and thus entitled to a seafarers' identity document and the corresponding facilities; and the essential nature of the seafarers' identity document and the difference between it and a passport. The latter distinction — the difference between an international professional identity document issued pursuant to a treaty, and a passport — is fundamental to the granting of facilities.

A passport is the basic national identity document. Although some passports mention the profession of the holder, the criterion for issuance of a passport is nationality not profession, and the legislation applicable to all aspects of the passport is national legislation. The function of a passport is as an identity document and to serve as prima facie evidence of the nationality of the holder. The scope of its use is broad in that it may be used for all lawful purposes. In the absence of a treaty obligation, the passport confers no rights under international law.

For purposes of understanding the seafarers' identity document in functional terms, the comparison would be with the United Nations *laissez-passer* — the professional travel document issued to United Nations staff for travel on official business.

The *laissez-passer* is issued pursuant to a treaty and its purpose is to facilitate the professional travel required of United Nations staff. Receiving States may require a visa in the document, but are under a treaty obligation to facilitate its delivery (visa facilitation).

Both the seafarers' identity document and the *laissez-passer* are narrower in scope than the passport because they are **professional** travel documents issued for limited purposes. However, unlike passports, these professional travel documents are supported by international treaties which require facilitation by receiving States within the scope of these instruments. In this regard, a seafarer on active service travelling on a seafarers' identity document is, in some respects, like the United Nations official on mission travelling on a *laissez-passer*.

What has clearly emerged from both the ILO Consultation Meeting and the IMO Maritime Safety Committee Meetings is that increased security requirements in many States mean that conditions for the admission of foreigners in general are becoming more restrictive.

In the IMO context, it was considered that while seafarers have legitimate claims to special facilities for their professional movements, those claims are based on their bona fides as seafarers, and it is appropriate for receiving States to require a security counterpart when granting these facilities. Visa waivers, which both Shipowners and Seafarers considered of paramount importance, as well as visa facilitation, are exceptional facilities. When these are granted on the basis of professional status, receiving States consider it their prerogative to require persons in that professional category to justify, in addition to identity and nationality (which is the case for all foreigners), the professional information which serves as the basis for the exceptional facilities that are being requested.

QUESTIONNAIRE

The various discussions outlined in the previous chapters of this report indicate that, in considering the security aspects of seafarers' identity documents, there are essentially three ILO interests that need to be taken into account and may sometimes need to be balanced. One is of course the security of the seafarers themselves and of their ships and their working environment. The other two interests relate to the facilitation of maritime commerce and of decent working conditions including such fundamental rights as privacy and freedom from discrimination. The latter interests both stem from a fact which has become apparent in recent discussions in the IMO as well as the ILO; namely that a substantial number of countries will be requiring "positive verifiable identification" before they will grant special facilities enabling seafarers to carry out the international professional moves necessary both for their work (such as rapidly joining a ship or transferring to another ship) and for their well-being (in particular, shore leave,[1] whose denial would result in "severe hardship and intolerable privation"[2] for seafarers at sea for long periods).

The Seafarers' Identity Documents Convention, 1958 (No. 108),[3] basically requires ILO Members ratifying it to issue seafarers' identity documents corresponding to the criteria established by it and to recognize similar documents issued by other parties to the Convention. On the basis of such documents, the parties are required to grant certain facilities to seafarers, such as shore leave, referred to above. The changes brought about by the envisaged instrument, at present conceived as a Protocol to Convention No. 108 (see section C below), would have a twofold purpose:

(a) to strengthen the reliability of the identity document as well as the related national procedures and infrastructures;

(b) to maintain the obligations relating to the rights and facilities to be granted to seafarers, bearing in mind the need to ensure the widest possible acceptability of the new instrument.

Having regard to article 38, paragraph 1, of the Standing Orders of the Conference, referred to in the Introduction to the present report, governments are requested to consult the most representative organizations of employers and workers before finalizing their replies to this questionnaire, to give reasons for their replies and to indicate which organizations have been so consulted. Governments are also reminded of the importance of ensuring that all relevant departments are involved in the present consultation process including the departments responsible for labour and social affairs and maritime transport and the immigration authorities.

---

[1] See above, Ch. II, the section on shore leave.

[2] See comments of the Committee of Experts on the Application of Conventions and Recommendations on Convention No. 108 reproduced in Annex II of this report.

[3] See Annex I to this report.

In accordance with article 38, paragraph 2, of the Standing Orders of the Conference, a final report, including a draft for a proposed instrument, will be communicated to governments not less than four months before the opening of the 91st Session of the Conference (June 2003). In order to enable the Office to take account of the replies to this questionnaire, governments are requested to send their replies so as to reach the Office no later than 31 December 2002.

A separate form for replies has been inserted for the convenience of those responding. Copies can be made for employers' and workers' organizations if their replies are to be separate.

As stated above, there are essentially two aspects of Convention No. 108 that are in need of particular attention:

(a) improving the security features relating to the seafarers' identity document; and

(b) facilitating the professional activities of seafarers and the exercise of their rights at work.

These aspects are dealt with respectively in sections A and B below. Section C seeks to clarify questions relating to the form of the new instrument and its relationship with Convention No. 108. The questionnaire is followed by a preliminary draft of provisions. This draft should essentially be seen as an illustration of how the propositions on which each question is based might be expressed in a legal instrument.

A. Improving the security features relating to the seafarers' identity document

The primary security objective is to enable an immigration or other competent official to easily verify, with the maximum of certainty, that the bearer of a seafarers' identity document, temporarily within the territorial jurisdiction of the country concerned, is indeed a seafarer; that he/she is indeed the person identified on the document and that he/she has the nationality stated on it.

From the information provided to the IMO and the ILO, especially at the Tripartite Consultation Meeting on Improved Security of Seafarers' Identification, referred to previously, it appears that this objective requires consideration of several aspects, covering:

(1) the issue of the identity document to the seafarer;

(2) the physical characteristics of the identity document;

(3) the form and content of the information to be provided for on the identity document;

(4) external means of verifying the authenticity of the identity document or of the information given; and

(5) reliability of the national system of seafarers' identification.

Propositions based on the information received so far are stated below under each of the above headings. The answers to this questionnaire may be given by checking the box expressing agreement or disagreement and, where applicable, providing comments including the reasons for any disagreement.

A1. Issue of the identity document to the seafarer

Under Article 2, paragraph 1, of Convention No. 108, each ratifying Member has an obligation to issue "... to each of its nationals who is a seafarer on application by him a seafarers' identity document conforming with the provisions of Article 4 of this Convention". Under Article 2, paragraph 2, the Member may (but is not obliged to do so) "... issue a seafarers' identity document to any other seafarer either serving on board a vessel registered in its territory or registered at an employment office within its territory who applies for such a document". Under Article 6 of the Convention, other ratifying Members are obliged to recognize the document issued, for certain purposes set out in that Article.

It is understood that the most important part of the identification process relates to the actual issue of the document, as any mistake at this stage will simply be perpetuated by the identity document.

Question A1(a) *— The seafarers' identity document provided for in the new instrument should (save in prescribed exceptional cases) only be issued by the State of the seafarers' nationality (which is in the best position to verify the information contained in the document).*

Do you agree? □ Disagree? □

See preliminary draft below, Article 2.1.

Comments: _____

Question A1(b) *— The exceptional cases are those of refugees and stateless persons (or persons apparently bearing the nationality of countries that no longer have records).*

Do you agree? □ Disagree? □

Other exceptional cases: _____

Comments: _____

Question A1(c) *— In these exceptional cases:*

(i) The seafarers' identity document may only be issued by the State in which the refugee has sought or been granted asylum or by the State which has granted the stateless person a residence permit including permission to return to that State.

Do you agree? □ Disagree? □

Comments: _____

(ii) The State concerned would (as at present under Convention No. 108) not be obliged to issue a seafarers' identity document in such cases.

Do you agree? □ Disagree? □

Comments: _____

See preliminary draft, Article 2.2.

Question A1(d) *— Should it be possible for the seafarers' identity document to be issued by the State in which the seafarer is a permanent resident (in addition to the cases referred to in the preceding question)?*

Yes ☐ No ☐

Comments: _____

Question A1(e) *— What documents do the competent authorities of your country require in order to issue a seafarers' identity document?*

Answer: _____

A2. The physical characteristics of the identity document

Under Article 4, paragraph 1, of Convention No. 108, "The seafarers' identity document shall be designed in a simple manner, be made of durable material, and be so fashioned that any alterations are easily detectable."

While the above provision may be in need of more detailed clarification, the information received indicates that the seafarers' identity document should continue to be issued by each Member individually and that the requirements for such a document should continue to be specified in general terms so as to enable its format to keep up with advances in technology. However, Convention No. 108 (Article 4, paragraph 6) leaves the precise form and content of the seafarers' identity document to be decided by each Member. In order to ensure consistent use, it has been considered that identity documents issued by the parties to the new instrument should conform to a uniform standard, enabling each national identity document to be recognized instantly by immigration officials worldwide.[4] This leads to the propositions in (a) (b) and (c) below:

Question A2(a) *— The new instrument should set out clear criteria concerning the physical characteristics of the identity document.*

Do you agree? ☐ Disagree? ☐

Comments: _____

Question A2(b) *— The instrument should go further than Convention No. 108 by requiring each identity document issued to be based on an agreed international model, conforming to the criteria set by the instrument.*

Do you agree? ☐ Disagree? ☐

Comments: _____

[4] This was in fact one of the ideas (not fully realized) behind the present Convention No. 108 — see above in the Introduction to this report.

***Question A2(c)** — The international model should be:*

(i) adopted by the International Labour Conference and reproduced in an appendix to the new instrument;

Do you agree? □ Disagree? □

(ii) and regularly updated by the Conference in accordance with a simplified amendment procedure;

Do you agree? □ Disagree? □

(iii) under this procedure, amendments would require a two-thirds majority in favour and they would have to conform to the standards or criteria set out in the provisions of the new instrument.

Do you agree? □ Disagree? □

See preliminary draft, Article 3.

Comments: _____

***Question A2(d)** — In addition to the criteria set out in Article 4, paragraph 1, of Convention No. 108, the following general specifications are suggested:*

(i) The identity document should incorporate the latest proven technology to prevent tampering or falsification and to enable easy detection of alterations.

Do you agree? □ Disagree? □

See preliminary draft, Article 4.1(i).

Comments: _____

(ii) The material and techniques used should be easily accessible to all governments at the lowest cost consistent with reliably achieving the purpose under (i) above.

Do you agree? □ Disagree? □

See preliminary draft, Article 4.1(ii).

Comments: _____

(iii) The identity document should be no larger than a normal passport.

Do you agree? □ Disagree? □

See preliminary draft, Article 4.2.

Comments: _____

(iv) Other specifications concerning the physical characteristics of the identity document.

Comments: _____

Question A2(e) *— Specific technologies to be used, conforming with the above criteria and specifications:*

(i) Lamination over photographs and data?

Yes □ No □

Comments: _____

(ii) Pages containing watermarks?

Yes □ No □

Comments: _____

(iii) Ultra-violet security features?

Yes □ No □

Comments: _____

(iv) Materials other than paper?

Yes □ No □

Comments: _____

(v) Special inks?

Yes □ No □

Comments: _____

(vi) Special colour design?

Yes □ No □

Comments: _____

(vii) Other technologies?

Comments: _____

Question A2(f) *— In the interest of simplicity, the model in the appendix referred to in question A2(c) above should require uniformity only to the extent necessary to achieve the following objectives:*

(i) To make the seafarers' identity document easily recognizable as such.

Do you agree? □ Disagree? □

(ii) To ensure that the material used conforms to the physical requirements established by the instrument.

Do you agree? □ Disagree? □

(iii) To enable each item of data to be recognized even by persons unfamiliar with the language used.

Do you agree? □ Disagree? □

(iv) To make the maximum use of standardized data (such as country codes and a standard representation for dates).

Do you agree? □ Disagree? □

See preliminary draft, Appendix A-I.

Comments: _____

(v) Other objectives?

Comments: _____

A3. The form and content of the information to be provided for on the identity document

Under Article 4, paragraph 2, of Convention No. 108, the seafarers' identity document is to contain the name and title of the issuing authority, the date and place of issue, and a statement that the document is a seafarers' identity document for the purpose of the Convention. Under paragraph 3, the following particulars concerning the bearer are to be included:

(a) full name (first and last names where applicable);

(b) date and place of birth;

(c) nationality;

(d) physical characteristics;

(e) photograph; and

(f) signature or, if bearer is unable to sign, a thumbprint.

***Question A3(a)** — Should the identity document also indicate the seafarer's sex (a particular not required by Convention No. 108)?*

Yes □ No □

Comments: _____

The particulars mentioned in subparagraphs (d), (e) and (f) are means of assisting "positive verifiable identification" referred to above. It has been suggested that the photograph (see (e)) should be a digital one — presumably to enable accurate transmission, a subject dealt with in section A4 below.

The main new element that has been suggested in connection with positive verifiable identification is the biometric template explained in some detail in Chapter IV of this report: a biometric is understood as the use of a physiological or behavioural characteristic, such as a fingerprint, voice pattern or iris or retinal pattern, as a means

of identification or authentication of identity. The template is understood as a string of characters or other data which describes the biometric concerned and which could be written on the document or stored on a chip[5] or in a database. Obviously, a biometric can provide a more accurate identification than a photograph or signature and, with the aid of technology, can be verified more accurately. However, the importance has been stressed of the difficulties that might be encountered especially by developing countries in acquiring the necessary equipment and technology at a reasonable price and being able to operate it, particularly under the conditions existing in the ports or other places where the equipment would need to be used. Only limited information has so far been obtained on the availability, cost and user-friendliness of appropriate technology.[6] Question A3(b) below therefore suggests that biometric data might be included in the seafarers' identity document (if necessary through the simplified amendment procedure referred to in question A2(c) above) only if a number of important preconditions are satisfied.

Attention has also been drawn to a possible constitutional problem in some countries if seafarers were required to provide biometric data for a seafarers' identity document when such data were not required for other citizens applying for a passport.

Question A3(b) *— (1) A template or other representation of a biometric of the bearer of the identity document could be required under the new instrument, provided that the necessary preconditions (see below) were all satisfied.*

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.5.

Comments: _____

(2) The following preconditions are suggested:

(i) That the biometric can be provided by persons without invasion of their privacy or offence against their dignity.

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.5(i).

Comments: _____

(ii) That seafarers should have the right to refuse to provide biometric data and, instead, to use their national passport to authenticate their identity.

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.5(ii).

Comments: _____

[5] The Seafarers' representatives stressed the need for transparency of all information recorded.

[6] According to a paper provided by the Automatic Identification Manufacturers Association, Japan, and made available by the Government of Japan for the preparation of this questionnaire, it was not considered likely that standards to enable biometric technology to be widely used internationally would be established in the next few years.

(iii) That the equipment needed for providing and verifying the biometric:

— *is user-friendly;*

Do you agree? ☐ Disagree? ☐

— *is generally accessible worldwide at low cost and under reasonable terms;*

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.5(iii).

— *can be conveniently operated on board ship, in ports and in other places where verification of identity is normally carried out.*

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.5(iv).

Comments: _____

(iv) Other preconditions.

Comments: _____

***Question A3(c)** — Concerning relevant biometric technology:*

(i) What kind of biometric technology (if any) is available in your country?

Answer: _____

(ii) What is your experience in its use?

Answer: _____

(iii) When might technology satisfying the above preconditions be available in your country?

Answer: _____

The seafarers' identity document is used for professional purposes, in addition to the security purposes which have now come to the fore. As explained more fully in Chapter III of this report, the question has arisen as to whether the identity document could not also usefully contain information concerning seafarers' qualifications and similar information currently contained in certificates issued in accordance with the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended. As recalled above, the representatives of Seafarers consider that such information should not be provided for, and the Shipowners are of a similar view as far as inclusion of the information on a mandatory basis is concerned. At the same time, opinions expressed in the IMO framework have favoured such inclusion since information related to the seafarers' qualifications would provide verifiable evidence of the bearer's occupation as a seafarer and his/her

bona fides to hold a seafarers' identity document. Since certificates referred to in the STCW Convention may be issued by authorities other than the national authorities, there would presumably be no question of requiring an actual certification of qualifications from the authority issuing the identity document. However, on the basis of evidence furnished by the seafarer concerned, the authority issuing the seafarers' identity document could provide information on relevant certificates held, with a confirmation that it has no reason to doubt the authenticity or validity of the certificates concerned.

Question A3(d) *— (1) Should the seafarers' identity document contain information on certificates held by seafarers with respect to their qualifications?*

Yes ☐ No ☐

(2) Should the inclusion of such information be a matter for each Member to decide (see question A3(i) below)?

Yes ☐ No ☐

Comments: _____

Question A3(e) *— It has also been suggested that the identity document might include blank pages (for example, to enable annotations by competent authorities or the inclusion of relevant information such as that relating to sea service — see question A3(j) below).*

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.2.

Comments: _____

Question A3(f) *— Article 4, paragraph 5, of Convention No. 108 provides that "Any limit to the period of validity of a seafarers' identity document shall be clearly indicated therein." If a period of validity is specified it should presumably be sufficiently long, as is the case with passports, to avoid cost and inconvenience to the seafarers as well as administrative costs.*

(i) According to advice received, a period of validity should always be specified on the document.

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 4.4(g).

Comments: _____

(ii) If you agree to (i), should the period be left to the issuing authority to specify?

Yes ☐ No ☐

Comments: _____

(iii) If a specific period of validity should be provided for in the instrument, how long should it be?

Period: _____

Comments: _____

***Question A3(g)** — (1) Each identity document would need to contain a reference number so as to facilitate external verification – see section A4 below.*

Do you agree? □ Disagree? □

See preliminary draft, Article 4.4(h).

(2) If you agree with (1), should the format of that reference number:

(i) be left to each issuing authority to decide?

Yes □ No □

(ii) conform to a universal reference standard?

Yes □ No □

Comments: _____

***Question A3(h)** — Other particulars to be included in all seafarers' identity documents:*

Answer: _____

Comments: _____

***Question A3(i)** — As is now provided for in Convention No. 108 (Article 4, paragraph 7), the new document should contain space for the issuing authority to add further details required by the national law concerned (for domestic purposes or, for example, in order to enable seafarers to meet other conditions that may be imposed by port States that are not parties to the instrument or may be required under other international instruments).*

Do you agree? □ Disagree? □

See preliminary draft, Article 4.6.

Comments: _____

***Question A3(j)** — Should Members be free to use the seafarers' identity document also as the document containing the record of employment referred to in Article 5 of the Seamen's Articles of Agreement Convention, 1926 (No. 22)?*

Yes □ No □

Comments: _____

Question A3(k) *— Should the instrument specify that any further details added must be related to the identification of seafarers?*

Yes □ No □

Comments: _____

Question A3(l) *— Concerning the form in which information is to be inscribed, the data should be:*

(i) machine-readable, where possible;

Do you agree? □ Disagree? □

(ii) and capable of visual inspection by the seafarer concerned (rather than stored on chips or magnetic strips, for example).

Do you agree? □ Disagree? □

See preliminary draft, Article 4.7.

Comments: _____

A4. External means of verifying the authenticity of the identity document or of the information given

Question A4(a) *— The national issuing authorities should maintain a database including a reference to each identity document issued by them.*

Do you agree? □ Disagree? □

Comments: _____

Question A4(b) *— It should be possible for immigration and other competent authorities of parties to the instrument to have immediate access at all times to the database to facilitate the rapid verification of information appearing on the document.*

Do you agree? □ Disagree? □

See preliminary draft, Article 5.1.

Comments: _____

Question A4(c) *— In order to safeguard privacy in particular, the information accessible from the database should be restricted to:*

— name of the issuing authority?

Yes □ No □

Comments: _____

— *seafarer's name?*

Yes □ No □

Comments: _____

— *reference number?*

Yes □ No □

Comments: _____

— *period of validity of the document?*

Yes □ No □

Comments: _____

— *template or other alphanumeric representation of a biometric (if applicable)?*

Yes □ No □

Comments: _____

See preliminary draft, Article 5.2 and Appendix A-II.

— *other?*

Answer: _____

Question A4(d) *— The instrument should require each ratifying Member to designate a permanent focal point for responding to inquiries from the immigration or other competent authorities of parties to the instrument.*

Do you agree? □ Disagree? □

See preliminary draft, Article 5.3.

Comments: _____

A5. Reliability of the national system of seafarers' identification

There was general agreement in the recent consultations that the procedures established by each country for the issuing of identity documents should be the object of external monitoring or evaluation. Reference was made in this connection to audits carried out in the framework of the IMO and the International Civil Aviation Organization (ICAO) as well as to what is known as the "White List" prepared by the Secretary-General of the IMO with the assistance of a panel of competent persons. However, no suggestions have been made so far as to how the question should be dealt with in the new instrument.

Information on the ICAO and IMO systems is given in Chapter V of this report. In particular, the ICAO Universal Safety Oversight Audit Programme, set up in January 1999, comprises regular mandatory systematic and harmonized safety audits, carried out by ICAO with respect to all its Member States. It includes a systematic reporting and monitoring mechanism on the implementation of safety-related standards and recommended practices. Its legal basis relies, inter alia, on Article 33 of the Convention on International Civil Aviation (Chicago Convention, 1944), requiring Members to recognize the validity of certificates of airworthiness and crew member licences issued by other Members "provided that the requirements under which such documents were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention". Arrangements are now being envisaged with respect to similar security audits to be carried out by each ICAO Member State.

Question A5(a) — *The new instrument should provide for the adoption of minimum requirements and recommended practices concerning procedures for the issue of seafarers' identity documents, including quality control procedures.*

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 6.1.

Comments: _____

Question A5(b) — *The instrument should require ratifying Members:*

(i) To carry out periodic evaluations of those procedures in the light of the minimum requirements and recommended practices.

Do you agree? ☐ Disagree? ☐

(ii) To submit a copy of their national procedures (including quality control procedures) and the evaluations in their reports to the Director-General of the International Labour Office.

Do you agree? ☐ Disagree? ☐

(iii) To make such copies available (subject to the removal of any confidential material) to other ratifying Members.

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 6.2.

Comments: _____

Question A5(c) — *In addition, the Governing Body might approve a system of audit and auditing institutions (in appropriate cases, within the framework of the ILO's Technical Cooperation Programme) of which ratifying Members could voluntarily*

avail themselves in order to remove any doubts concerning the reliability of their seafarers' identification system.

Do you agree? □ Disagree? □

Comments: _____

***Question A5(d)** — The instrument might also contain a proviso, similar to the one in the ICAO Convention referred to above, but taking account of applicable ILO constitutional procedures, under which the obligation to recognize seafarers' identity documents issued by other parties to the instrument would be based on the latter's compliance with the minimum standards.*

Do you agree? □ Disagree? □

See preliminary draft, Article 6.3.

Comments: _____

B. Facilitating the professional activities of seafarers and the exercise of their rights at work

The main purpose of this section of the questionnaire is to ascertain the extent to which the provisions in Convention No. 108 concerning the rights or facilities to be accorded to seafarers could present problems for:

— the present parties to that Convention; and

— Members which have not yet ratified the Convention.

The seafarers' rights or facilities are the following:

(1) right to be issued with a seafarers' identity document;

(2) right to continuous possession of the identity document;

(3) right of readmission to the territory of issue;

(4) right of admission to the territories visited.

In addition, consideration may need to be given to a general right to recognition of the seafarers' identity document.

B1. Right to be issued with a seafarers' identity document

Under Article 2, paragraph 1, of Convention No. 108, Members ratifying the Convention are obliged to issue the seafarers' identity document (or a passport with equivalent effect, in the case of special classes of seafarers) to each of their nationals who applies for such a document and is a seafarer within the meaning and scope of the Convention.

***Question B1** — Does the obligation to issue seafarers' identity documents raise any problem for Members?*

Yes □ No □

Nature of the problem or other comment: _____

B2. Right to continuous possession of the identity document

Article 3 of Convention No. 108 provides that "The seafarers' identity document shall remain in the seafarer's possession at all times." Thus, for example, as pointed out by the Committee of Experts on the Application of Conventions and Recommendations,[7] "Practices involving surrender of the document to the shipowner, to the port State authorities during shore leave, or to the issuing authority between engagements, are contrary to the Convention."

Question B2(a) *— Does the seafarers' right to continuous possession of the seafarers' identity document raise any problem for Members?*

Yes ☐ No ☐

Nature of the problem or other comment: _____

A distinction could be made between the temporary retention of an identity document validly issued and the withdrawal of a document following revocation of its issue. An authority issuing a document could be presumed to have the right to withdraw it and indeed the obligation to do so if the conditions for the grant were not satisfied or are no longer satisfied.

Question B2(b) *— (1) If the answer to Question B2(a) indicates that a problem exists, would it be overcome if Article 3 of Convention No. 108 is understood as not affecting the right and duty to withdraw a document invalidly held?*

Yes ☐ No ☐

(2) Should such an understanding be confirmed in the new instrument?

Yes ☐ No ☐

Comments: _____

B3. Right of readmission to the territory of issue

In accordance with Article 5 of Convention No. 108, the competent authority of a territory issuing a seafarers' identity document pursuant to the Convention is obliged to readmit the seafarer concerned to its territory during the period of validity of the document and for one year after any date of expiry indicated in the document.

Question B3 *— On the assumption that the new seafarers' identity document would normally be issued* ***only*** *to nationals of the country concerned and that the exceptional issue to refugees or stateless persons would be optional (see section A1 above), would the requirements to readmit the seafarer to the issuing country raise any problem for Members?*

Yes ☐ No ☐

Nature of the problem or other comment: _____

[7] See para. 88 of the Committee of Experts' report reproduced in Annex II to this report.

B4. Right of admission to the territories visited

Admission for temporary shore leave

Under Article 6, paragraph 1, of Convention No. 108, "Each Member shall permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarers' identity document, when entry is requested for temporary shore leave while the ship is in port." As pointed out by the Committee of Experts,[8] the seafarers' identity document is the sole identity card required for this purpose: "... denial of shore leave by local authorities can only take place on an individual basis and presumably for compelling reasons (Article 6(4)). Moreover, any administrative obstacle to taking shore leave, or the imposition of fees or taxes of any kind as a condition for taking shore leave in a State party to the Convention, is a violation of Article 6(1)". Article 6, paragraph 4, provides that: "Nothing in this Article shall be construed as restricting the right of a Member to prevent any particular individual from entering or remaining in its territory."

Question B4(a) *— Does the requirement to admit the bearers of seafarers' identity documents for the purposes of shore leave raise any problem for Members?*

Yes ☐ No ☐

Nature of the problem or other comment: _____

Section 3.45 of the Annex to the Convention on Facilitation of International Maritime Traffic, 1965 (FAL), states that: "Crew members shall not be required to hold a visa for the purpose of shore leave." Although Article 6, paragraph 1, of Convention No. 108 requires the port State to permit entry for shore leave, this Article does not expressly exclude the possibility that permission for entry could be granted through the issuance of a visa, as long as the provisions of Article 6, paragraph 1, are fulfilled.

Question B4(b) *— If visas allowing entry were promptly granted, without charge, to holders of the seafarers' identity document who request shore leave on arrival in port, save in exceptional cases covered by Article 6, paragraph 4, of Convention No. 108:*

(i) Would a visa requirement in those circumstances be considered compatible with paragraph 1 of Article 6 of Convention No. 108?

Yes ☐ No ☐

Comments: _____

(ii) Would an understanding along the lines above (i) overcome any problem referred to in answer to question B4(a)?

Yes ☐ No ☐

Comments: _____

[8] See paras. 78 and 79 of the abovementioned report reproduced in Annex II to this report.

Admission for other purposes

Article 6, paragraph 2, of Convention No. 108 requires Members also to admit holders of seafarers' identity documents if the document contains space for appropriate entries, for the following other purposes:

— joining their ship or transferring to another ship;

— passing in transit to join their ship in another country or for repatriation;

— any other purpose approved by the authorities of the Member concerned.

Under paragraph 3, the Member may make admission subject to the production of satisfactory evidence of the seafarers' intentions and of their ability to carry out those intentions. The seafarers' stay may also be limited to a reasonable period. Paragraph 4, concerning exceptional refusal in individual cases, also applies.

Question B4(c) *— Does the requirement of admission — under the conditions stated in the preceding question — for any of the purposes mentioned in paragraph 2 of Article 6 of Convention No. 108 raise any problem for Members?*

Yes ☐ No ☐

Nature of the problem or other comment: _____

Question B4(d) *— What might be the main consequences if a seafarer in a foreign port does not hold a valid seafarers' identity document issued pursuant to the new instrument:*

— refusal of shore leave?

Yes ☐ No ☐

— refusal of entry to join the seafarer's ship or transfer to another ship?

Yes ☐ No ☐

— refusal of transit to join the seafarer's ship in another country or for repatriation?

Yes ☐ No ☐

— other consequences?

Comments: _____

B5. General right to recognition of the seafarers' identity document

One of the main purposes of the seafarers' identity document is undoubtedly to confirm that the bearer is a genuine seafarer. Convention No. 108 does not however expressly state this principle but rather recognizes specific rights based on that principle which enable the seafarers to go ashore; they do not cover the seafarers who remain on board; but, even there, they are still within the territorial jurisdiction of the port State and there have been indications in the IMO discussions that, in the wake of

the 11 September 2001 attacks, security checks on board visiting ships will in certain cases be considered as justified by the port State.

Question B5 — *The new instrument should expressly state the general principle that the authorities of port States must accept that the bearers of valid seafarers' identity documents issued by other parties to the new instrument are genuine seafarers unless clear grounds exist for doubting the bona fides of a seafarer in a particular case.*

Do you agree? ☐ Disagree? ☐

See preliminary draft, Article 7.1.

Comments: _____

C. Form of the new instrument (Protocol or new Convention?) and its relationship with Convention No. 108

At present the new instrument is conceived as a Protocol to Convention No. 108. However, the precise form of the instrument is subject to the determination of the International Labour Conference at its 91st Session (June 2003). It might at that time, in particular, appear preferable for the new instrument to take the form of a Convention revising Convention No. 108, so as to enable the *ipso jure* denunciation of Convention No. 108 when the new instrument came into force for the Member concerned.[9] This question may to a large extent depend upon whether or not the parties to Convention No. 108 need to be released from certain obligations. The following questions are therefore primarily directed to governments (in consultation with their social partners) of countries that have ratified or intend to ratify Convention No. 108. Question C2(b) below, however, would be of concern to all Members.

Basically, three kinds of obligation are provided for by Convention No. 108:

(1) obligation to issue seafarers' identity documents conforming to the provisions of that Convention;

(2) obligation to accept seafarers' identity documents issued by other ratifying Members in conformity with the Convention;

(3) obligations concerning rights and facilities referred to in section B above.

C1. Obligation to issue seafarers' identity documents

Provided that care is taken to ensure that the new instrument establishes requirements for the identity document that include all the requirements of Convention No. 108, the seafarers' identity document issued under the new instrument would also constitute such a document for the purposes of Convention No. 108 since the latter leaves the precise form and content to be decided by each Member and allows a Member to prescribe further particulars (Article 4, paragraphs 6 and 7).

[9] It would not be possible to denounce Convention No. 108 under the normal procedure until 19 February 2011.

Question C1 *— The new instrument should, inter alia, embody the requirements of Convention No. 108 relating to the seafarers' identity document, that it be made of durable material, be so fashioned that any alterations are easily detectable, as well as its content.*

Do you agree? □ Disagree? □

Comments: _____

C2. Obligation to accept seafarers' identity documents issued by other ratifying Members

Unless it is released from this obligation, a party to Convention No. 108 which ratifies the new instrument would be obliged to issue seafarers' identity documents in the new form and, at the same time, to recognize the validity of seafarers' identity documents conforming only to the Convention No. 108 requirements if they were issued by Members which were parties to Convention No. 108 but not to the new instrument.

Question C2(a) *— Should the new instrument release parties to Convention No. 108 that ratify the new instrument from their obligation to accept seafarers' identity documents issued in accordance with Convention No. 108?*

Yes □ No □

Comments: _____

If the new instrument embodies the requirements of Convention No. 108, parties to that Convention might voluntarily adapt their documents and procedures to those of the new instrument.

Question C2(b) *— In the interest of the rapid entry into effect of the new system on a universal basis and having regard to the time often needed for national ratification procedures, the new instrument could oblige the parties to it also to accept identity documents issued by parties to Convention No. 108, pending ratification of the new instrument, where the requirements of the latter instrument have been complied with.*

Presumably, such acceptance would need to be on a reciprocal basis.

Do you agree? □ Disagree? □

See preliminary draft below, Article 7.2.

Comments: _____

C3. Obligations concerning rights and facilities

It is hoped that any difficulties encountered by parties to Convention No. 108 to meet their obligations referred to in section B above could be resolved by acceptable understandings of the kind indicated under question B4(b) above.

Until all the parties to Convention No. 108 have ratified the new instrument, there will necessarily be a fairly complex relationship between the various parties. On the assumptions that the new instrument: (i) would maintain intact the rights and obligations under Convention No. 108, for the parties to that Convention; but (ii) would encourage the widespread use of the new identity document; and (iii) would promote respect for the rights established by Convention No. 108; assumptions whose validity will depend upon the answers to the questions set forth above, the legal situation might be as follows:

(a) parties to the new instrument would be required to issue the seafarers' identity document in the new form;

(b) parties to the new instrument would be required to accept the seafarers' identity document in the new form when issued by other parties to the new instrument (or, subject to reciprocity, by parties to Convention No. 108 pending ratification of the new instrument);

(c) parties to Convention No. 108 would also be required to accept the seafarers' identity document in the new form when issued by other parties to that Convention;

(d) parties to both the new instrument and Convention No. 108 would be required to accept the seafarers' identity document in its *present* form when issued by a party to the Convention which had not ratified the new instrument;

(e) parties to Convention No. 108 which had not ratified the new instrument could not be required to accept a seafarers' identity document from a non-party to that Convention (as the new instrument would not be binding on them, but they could accept the document on a voluntary basis);

(f) parties to the new instrument and parties to Convention No. 108 would be required to accord the rights and facilities provided for in Article 6 of the Convention, possibly subject to certain understandings.

In the case of *ipso jure* denunciation of Convention No. 108, referred to at the beginning of this section, the obligation on parties to the new instrument to accept identity documents referred to under (d) above would cease, as would the obligation on parties to Convention No. 108 to accept identity documents issued by parties to the new instrument (see (c) above).

D. Other suggestions or comments

.....

Preliminary draft of possible provisions

The following provisions that are presently reflected in this preliminary draft as a Protocol are intended to illustrate how the propositions set out above might, if they were found acceptable, be translated into possible legal provisions. They are not intended as concrete proposals for the new instrument which could take the form of a

new Convention. It is therefore suggested, in order to avoid any duplication, that comments on the substance of the provisions be made in connection with the corresponding questions.

ARTICLE 1

1. The present Protocol modifies certain aspects of the Seafarers' Identity Documents Convention, 1958 (No. 108), hereinafter referred to as "the Convention".

2. All provisions of the Convention that are compatible with those of this Protocol shall fully apply to each Member for which the Protocol is in force.

3. For the purposes of paragraph 2 of this Article and subject to paragraph 2 of Article 7, references in the Convention to a Member or a territory for which the Convention is in force shall be understood as referring to a Member or a territory for which this Protocol is in force.

ARTICLE 2

1. The seafarers' identity document covered by this Protocol shall be issued, by each Member for which the Protocol is in force, to each of its nationals who is a seafarer referred to in Article 1 of the Convention and who applies for such document.

2. Notwithstanding paragraph 2 of Article 2 of the Convention, the seafarers' identity document covered by this Protocol may be issued to seafarers who are not nationals of the Member concerned only where the seafarer:

(i) has been recognized as a refugee by the Member or, in accordance with international arrangements, has sought or been granted asylum on the Member's territory; or

(ii) is a stateless person, or a person whose nationality is in doubt due to the absence of records in the country of apparent nationality, and has been granted permission to reside in the Member's territory, including permission to return to it.

ARTICLE 3

1. Notwithstanding Article 4 of the Convention, the seafarers' identity document covered by this Protocol shall conform — in its physical characteristics and in its form and content — to the model set out in Appendix A-I hereto.

2. This model is based on the criteria set forth in Article 4 below. Provided that the provisions of that Article are respected, the Appendix may be amended by the International Labour Conference by a majority of two-thirds of the votes cast by the delegates present. In adopting amendments, the Conference shall specify when they will enter into effect, taking account of the need to give Members sufficient time to make any necessary revisions of their national seafarers' identity documents and procedures.

ARTICLE 4

1. The seafarers' identity document shall be designed in a simple manner, be made of durable material and shall incorporate the most recent technology which:

(i) will, as far as possible, prevent tampering with the document or falsification and will enable easy detection of alterations; and

(ii) is generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in (i) above.

2. The seafarers' identity document shall be no larger than a normal passport. It may contain extra pages.

3. The seafarers' identity document shall contain the name and title of the issuing authority, the date and place of issue, and a statement that the document is a seafarers' identity document for the purpose of this Protocol.

4. The seafarers' identity document shall include the following particulars concerning the bearer:

(a) full name (first and last names where applicable);

(b) date and place of birth;

(c) nationality;

(d) physical characteristics;

(e) digital photograph;

(f) signature or, if bearer is unable to sign, a thumbprint;

(g) the date when the identity document or its latest renewal will expire; and

(h) reference number.

5. A template or other representation of a biometric of the bearer may also be required in the seafarers' identity document, provided that the following preconditions are satisfied:

(i) the biometric can be captured without any invasion of privacy of the persons concerned or offence against their dignity;

(ii) seafarers are given the right to refuse to provide biometric data and, instead, to authenticate their identity by means of a national passport;

(iii) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost; and

(iv) the equipment can be conveniently operated on board ship, in ports and in other places where verification of identity is normally carried out.

6. The above particulars may be followed by an appropriate heading and space to enable the national issuing authorities to enter such other particulars as may be prescribed by their national laws or regulations, including other international arrangements to which their State is party.

7. All data recorded on the document shall be eye-readable and also, to the maximum extent possible, machine-readable.

ARTICLE 5

1. Each Member shall ensure that a reference to each seafarers' identity document issued by it is stored in an electronic database, which shall at all times be immediately accessible to the immigration or other competent authorities of all Members for which this Protocol is in force.

2. The information contained in the reference shall be restricted to details which are essential to assist the verification of a seafarers' identity document or of the status of a seafarer and which are consistent with the seafarer's right to privacy. They are set out in Appendix A-II hereto, which may be amended by the International Labour Conference as provided for in Article 3, paragraph 2, above, taking account of the need to give Members sufficient time to make any necessary revisions of their national database systems.

3. Each Member shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of Members for which this Protocol is in force, concerning any seafarers' identity document issued by its competent authorities.

ARTICLE 6

1. The International Labour Conference may by a majority of two-thirds of the votes cast by the delegates present adopt minimum requirements and recommended practices concerning procedures for the issue of seafarers' identity documents, including quality control procedures.

2. At intervals decided by the Conference or the Governing Body of the International Labour Office, each Member shall carry out an evaluation of the aforementioned procedures in the light of the minimum requirements and recommended practices. It shall include a copy of its national procedures including quality control procedures, and of each evaluation, in its reports submitted in accordance with article 22 of the Constitution of the International Labour Organisation. It shall also make such copies available, subject to the removal of any confidential material, to other Members for which this Protocol is in force.

3. The recognition of seafarers' identity documents issued by a Member may be subject to its compliance with the minimum requirements referred to in paragraph 1.

ARTICLE 7

1. Any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of this Protocol by a Member for which the Protocol is in force shall, subject to paragraph 3 of Article 6, be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the bona fides of the bearer of the identity document in a particular case.

2. Any Member which is a party to the Convention and which is taking measures, in accordance with paragraph 5 of article 19 of the Constitution of the International Labour Organisation, with a view to ratification of this Protocol may notify the Director-General of the International Labour Office of its intention to apply the Protocol provi-

sionally. A seafarers' identity document issued by such a Member shall be treated for the purposes of paragraph 1 of this Article, and of paragraph 2 of Article 1 above, as a seafarers' identity document issued under this Protocol provided that the requirements of Articles 4 to 6 of this Protocol are fulfilled and that the Member concerned accepts seafarers' identity documents issued under this Protocol.

APPENDIX A-I

The seafarers' identity document, whose form and contents are set out below, shall consist of xx pages bound inside a hard cover. The pages shall be made of white paper, xx cm long, xx cm wide and at least xx mm thick. The hard cover may be of any colour and material and may contain any text consistent with the purpose of the seafarers' identity document. The data on the first page of the document [that are shaded in the model below] shall be covered by a lamination of the following specifications: ..... . The materials used shall respect ISO standards on identification cards.

Seafarers' identity document

Issued for the purpose of the Protocol to the Seafarers' Identity Documents Convention, 1958 (No. 108)

I. Issuing authority: .....

II. Date and place of issue: .....

[Digital photograph of seafarer]

(a) Full name of seafarer: .....

(b) Date and place of birth: .....

(c) Seafarer is a national of issuing State □, Refugee □, Stateless resident □

(d) Physical characteristics of seafarer: .....

(e) Signature of seafarer: .....

(f) Date of expiry of document: .....

(g) Reference number: .....

(h) Biometric template: .....

Other particulars:

[Official seal or stamp of the issuing authority]

Explanations of data

The above headings may be translated into the language(s) of the country of issue. They shall always be preceded by the relevant Roman numeral or letter in the Roman

alphabet. The entries for the headings may, where applicable, be accompanied by translation(s) into English, French or Spanish.

The information on the document shall have the following characteristics:

I. Issuing authority: i.e. ISO code for the country of issue and the name and title of the official issuing it.

II. Date and place of issue: the date shall be written in two-digit Arabic numerals in the form day/month/year – e.g. 31/12/77; the place shall be written in the same way as on the national passport.

Size of the photograph: yy X zz (minimum)
yy X zz (maximum)

(a) Full name of seafarer: the family name shall be written first, followed by the seafarer's other names;

(b) Date and place of birth: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport;

(c) Statement of nationality: place an X in the corresponding box;

(d) Physical characteristics: i.e. any evident characteristics assisting identification;

(e) [Signature];

(f) Date of expiry: in two-digit Arabic numerals in the form day/month/year;

(g) Reference number: country code (see I above) followed by a serial number;

(h) Biometric template: [precise specification].

The section headed "Other particulars:" on the first page of the identity document shall be free for the entry of data prescribed by national law or regulation.

Each of the other pages of the document shall begin with the page number (starting from page 2) and with the following heading:

"OFFICIAL STAMPS AND ANNOTATIONS RELATING TO ADMISSIONS INTO COUNTRIES"

accompanied, if desired, by translation(s).

The official seal or stamp of the issuing authority shall be affixed at the foot of each page. The rest of the pages shall be blank.

APPENDIX A-II

Electronic database

The details to be provided for each reference in the electronic database to be maintained by each Member in accordance with Article 5, paragraphs 1 and 2, of this Protocol shall be:

1. Issuing authority named on the identity document.

2. Full name of seafarer as written on the identity document.
3. Reference number of the identity document.
4. Date of expiry of the identity document.
5. Biometric template appearing on the identity document.

ANNEXES

ANNEX I

Convention No. 108
Convention concerning Seafarers' National Identity Documents*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-first Session on 29 April 1958, and

Having decided upon the adoption of certain proposals with regard to the reciprocal or international recognition of seafarers' national identity cards, which is the seventh item on the agenda of the session, and

Having decided that these proposals shall take the form of an international Convention,

adopts this thirteenth day of May of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Seafarers' Identity Documents Convention, 1958:

Article 1

1. This Convention applies to every seafarer who is engaged in any capacity on board a vessel, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation.

2. In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each country after consultation with the shipowners' and seafarers' organisations concerned.

Article 2

1. Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer on application by him a seafarer's identity document conforming with the provisions of Article 4 of this Convention: Provided that, if it is impracticable to issue such a document to special classes of its seafarers, the Member may issue instead a passport indicating that the holder is a seafarer and such passport shall have the same effect as a seafarer's identity document for the purpose of this Convention.

2. Each Member for which this Convention is in force may issue a seafarer's identity document to any other seafarer either serving on board a vessel registered in its territory or registered at an employment office within its territory who applies for such a document.

Article 3

The seafarer's identity document shall remain in the seafarer's possession at all times.

---

* Ed.: This Convention came into force on 19 February 1961.

Article 4

1. The seafarer's identity document shall be designed in a simple manner, be made of durable material, and be so fashioned that any alterations are easily detectable.

2. The seafarer's identity document shall contain the name and title of the issuing authority, the date and place of issue, and a statement that the document is a seafarer's identity document for the purpose of this Convention.

3. The seafarer's identity document shall include the following particulars concerning the bearer:

(a) full name (first and last names where applicable);

(b) date and place of birth;

(c) nationality;

(d) physical characteristics;

(e) photograph, and

(f) signature or, if bearer is unable to sign, a thumbprint.

4. If a Member issues a seafarer's identity document to a foreign seafarer it shall not be necessary to include any statement as to his nationality, nor shall any such statement be conclusive proof of his nationality.

5. Any limit to the period of validity of a seafarer's identity document shall be clearly indicated therein.

6. Subject to the provisions of the preceding paragraphs the precise form and content of the seafarer's identity document shall be decided by the Member issuing it, after consultation with the shipowners' and seafarers' organisations concerned.

7. National laws or regulations may prescribe further particulars to be included in the seafarer's identity document.

Article 5

1. Any seafarer who holds a valid seafarer's identity document issued by the competent authority of a territory for which this Convention is in force shall be readmitted to that territory.

2. The seafarer shall be so readmitted during a period of at least one year after any date of expiry indicated in the said document.

Article 6

1. Each Member shall permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in port.

2. If the seafarer's identity document contains space for appropriate entries, each Member shall also permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarer's identity document when entry is requested for the purpose of —

(a) joining his ship or transferring to another ship;

(b) passing in transit to join his ship in another country or for repatriation; or

(c) any other purpose approved by the authorities of the Member concerned.

3. Any Member may, before permitting entry into its territory for one of the purposes specified in the preceding paragraph, require satisfactory evidence, including documentary evidence, from the seafarer, the owner or agent concerned, or from the appropriate consul, of a seafarer's intention and of his ability to carry out that intention. The Member may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

4. Nothing in this Article shall be construed as restricting the right of a Member to prevent any particular individual from entering or remaining in its territory.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

ANNEX II

COMMENTS BY THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS ON CONVENTION NO. 108[1]

Application of the Seafarers' Identity Documents Convention, 1958 (No. 108)

73. The review of the governments' reports and the specimen identity documents has revealed in some cases a lack of awareness as to the purpose of the identity document and the rights and responsibilities which its issuance entails.

74. The Committee is aware of the tightening of immigration regulations in many regions and the particular problems this can create for seafarers, including those with identity documents issued pursuant to the Convention.

1. Purpose and specificity of the identity document

75. The document issued pursuant to this Convention, regardless of the form chosen (card or booklet), is a *seafarers' identity document*; it is not a passport. *Article 4(2) of the Convention* requires that the document contain a statement that it is a seafarers' identity document for the purpose of this Convention. Unlike a passport, which is a national document whose issuance (or refusal), use, possession and restitution are governed by national legislation, the seafarers' identity document is issued by a national authority pursuant to an international Convention. Consequently, it is the provisions of the Convention that govern all aspects of the identity document, unless otherwise provided in the Convention. The seafarers' identity document cannot be subjected to national legislation, in particular concerning, inter alia, passports, travel documents, and exit documents.

76. In exceptional cases where it is impracticable to issue the document to special classes of its seafarers, the Member may issue a passport indicating that its holder is a seafarer, *"in which case the passport shall have the same effect as a seafarers' identity document for the purpose of the Convention" [Article 2(1)]*. Thus, in exceptional circumstances a passport can become a seafarers' identity document, but the opposite is never possible.

77. The identity document is not a travel document *per se*, and any decision taken by the national authority to include space for notations concerning the purposes set forth in *Article 6(2)* — joining the ship, transit, repatriation — cannot alter the fact that the document remains a seafarers' identity document, and not a passport. Therefore, the Committee considers that any reference to the document as a "passport" should be deleted.

78. The primary purpose of the document is to facilitate temporary shore leave for the seafarer by means of a reciprocally recognized identity document. This is the minimum undertaking of States parties. When the document is used for temporary shore leave, as provided in *Article 6(1) of the Convention*, it serves as an identity card and a landing card, and is the sole identity document required for this purpose. In many cases ships are at sea for long periods and denial of shore leave would result in severe hardship and intolerable privation for the seafarer who must remain on board when the ship is in port because he lacks the travel documents normally required for foreign visitors. Shore leave, therefore, should be regarded as a special form of temporary entry in recognition of the unique status granted to seafarers, due to the special nature of their calling. It is exceptional both temporally (limited to the brief call of the vessel in port) and spatially (often limited to movement within the area of the port).

---

[1] ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Conference, 87th Session, 1999.

79. According to the terms of the Convention, denial of shore leave by local authorities can only take place on an individual basis and presumably for compelling reasons of public order (*Article 6(4)*). Moreover, any administrative obstacle to taking shore leave, or the imposition of fees or taxes of any kind as a condition for taking shore leave in a State party to the Convention, is a violation of *Article 6(1)*. The Committee further recalls that the purpose of the identity document only concerns conditions of entry as set forth in *Article 6* and readmission to the issuing territory as set forth in *Article 5*; it does not concern exit. Furthermore, although this is not a stated purpose of the Convention, the Committee is aware that in practice possession of the identity document is often a prerequisite to concluding a maritime labour contract.

2. Form and content of the identity document

80. The minimum particulars which the document must contain are set forth in *Article 4(3)* and can be placed on a card, as is the practice in some countries. The Committee recalls that the identity document was never intended to replace the national passport as an international travel document. It further recalls that, throughout the preparatory works, the document is referred to as a "seafarer's national identity card". The initial requirement of numbered pages (or pages at all) and space for additional entries was ultimately rejected. Notations for purposes other than temporary shore leave (i.e., entry stamps, visas) depend on whether the issuing authority has provided space for such entries (*Article 6(2)*). For these reasons, the document is not *required* to be but *may* be a travel document, according to the form chosen by the issuing authority.

81. In recalling the purpose of the identity document and requirements as to its form, the Committee considers that placing entry stamps or visas in the document and its use for immigration admission or as a travel document to cross international borders are separate and subsidiary questions.

3. Entitlement to the identity document

82. The State party to the Convention is required to issue the identity document to its nationals who are seafarers, regardless of the flag of the ship they sign on. This brings to the fore the status of the citizen as seafarer, and thus entitlement to the identity document.

83. In *Article 1(1)* the term seafarer is used in a broad and almost generic context to mean generally the personnel on board when the ship is at sea. This vision of the seafarer is both logical and in keeping with the essential *purpose* of the Convention: to allow the seafarer to take shore leave. Therefore, the concept of seafarer as set forth in paragraph 1 of the Article is to be understood in terms of a functional analysis, and as a general rule to which there may be exceptions, members of the crew are seafarers.

84. The status as a seafarer is not affected by periods of unemployment; rather it is in the nature of the calling of the seafarer to be unemployed between maritime engagements. *Article 2(2)* authorizes but does not require the authority to issue the identity document to a seafarer registered at an employment office. Thus a seafarer to whom an identity document has been issued, continues to retain the document during periods of unemployment.

85. The Convention allows but does not require a State party to issue identity documents to foreign seafarers.

4. Issuance and possession of the identity document

86. As provided in *Article 2(1)*, seafarers who are nationals shall apply in their personal capacity for the identity document. In this regard, the Committee observes with concern the practice in some States of requiring nationals to apply for the identity document through a national shipowner, thus effectively preventing seafarers from entering into a direct employment relationship with a foreign shipowner. In such situations local shipowners or maritime administrations recruit seafarers and then subcontract them to foreign shipowners.

87. Moreover, certain national legislative/regulatory texts provide for administrative refusal to issue identity documents or for their revocation — apparently without due process or recourse — to persons "legally banned" from working on vessels, or "for whom there exist reasons to be refused the issuance of a passport". In this regard, the Committee notes with concern that the refusal to issue documents denies the seafarer the right to work.

88. The terms of *Article 3* stipulate that the identity document is to remain in the seafarer's possession at all times. Practices involving surrender of the document to the shipowner, to the port State authorities during shore leave, or to the issuing authority between engagements, are contrary to the Convention. Issuance of the document constitutes recognition by the issuing authority that the holder is a seafarer; as such he is entitled to continuous possession of the identity document and to use it for the purposes set forth in *Articles 5 and 6*. For both foreigners and nationals, the issuance of a seafarers' identity document confers a right of return to the issuing territory for one year after expiry of the document *(Article 5)*.

5. Use of the identity document

89. The Committee emphasizes that the use of the identity document is distinct and must remain dissociated from the criteria of entitlement, the conditions of issuance, and the right of continuous possession. Whether the document can be used for purposes other than shore leave will depend on the form adopted by the issuing authority, following consultations with shipowners' and seafarers' organizations.

90. With regard to the purpose of the document and its use, the Committee considers that there are fundamental distinctions to be made between *entry*, *admission* and *travel*. Entry occurs once the ship is in the territorial waters of the State. When a merchant ship is in port, the crew has already entered the territory of the State, and is technically subject to its territorial jurisdiction. This principle is well established in international law although, in practice, as regards most situations on-board ship which do not directly affect the port State, it will refrain from exercising its jurisdiction over the vessel. Therefore, shore leave is more a conventional recognition of the principle of jurisdiction, according to which the seafarer is temporarily present in the territory, than a form of immigration admission. It is for this reason that the identity document need not have space for entry stamps or visas. The document in its essence is not intended for "admission" or "international travel", but only for identification of the seafarer to facilitate temporary shore leave. However, when there is space for notations in the document, there is clearly an obligation for the State party to allow entry into *its* territory for the additional purposes stated in *Article 6(2)* (transit, transfer, repatriation).

ANNEX III

Report of the Consultation Meeting on Improved Security of Seafarers' Identification, Geneva, 9-10 May 2002

The Consultation Meeting on Improved Security of Seafarers' Identification met in Geneva from 9 to 10 May 2002. It elected its Officers as follows:

Chairperson:	Mr. Georg T. Smefjell (Government, Norway)
Vice-Chairpersons and spokespersons:	Mr. Joe Cox (Shipowners, United States)
	Mr. Brian Orrell (Seafarers, United Kingdom)
	Captain Douglas Bell (Government, Bahamas)

A list of participants is to be found in Appendix 1.

Opening remarks were made by Mrs. Cleopatra Doumbia-Henry, Secretary-General of the Meeting. She recalled that the decision to hold this Consultation Meeting on Improved Security of Seafarers' Identification was taken by the Governing Body at its March 2002 session, following discussions at the Intersessional Working Group of the Maritime Safety Committee of the IMO (ISWG) and an exchange of letters between the Secretary-General of the IMO and the Director-General of the ILO. She noted that all of those present at the Meeting were aware of the terrible circumstances requiring the urgent re-examination by the United Nations and its specialized agencies of all security-related questions, one of which concerned the facilities that receiving States granted to seafarers and the appropriate forms of documentation so that these facilities remained compatible with national security requirements. Ms. Doumbia-Henry also pointed out that there was a need to reach a balance between facilitating trade and ensuring security, so that the economic and social foundations of our individual and collective well-being were not irreparably undermined. She then introduced the briefing paper prepared for the Meeting by the Office.[1]

The Government expert of the United States presented his country's position on the issue contained in a paper (Appendix 2) which had been submitted to the IMO for consideration.[2] He pointed out that the United States desired a satisfactory outcome at the ILO and that the submission to the IMO should not be regarded as a desire on the part of the United States for the issue to be addressed outside of the ILO. He explained the meaning of some of the terms used in this paper, namely "positive and verifiable identification" and "biometric template". "Positive" meant that the document holder was the person to whom it was issued. "Verifiable" implied that the authenticity of the document could be verified to a source. A "biometric template" was the digital representation of a biometric record such as a fingerprint or a photograph that could not be reverse-engineered back to the initial biometric representation record.

The Government experts expressed various opinions on the issues under discussion. In general they agreed that the document should: be issued by the seafarers' country of nationality (subject to addressing concerns about refugees); be forgery- and tamper-proof; and only be used for identification and for facilitating the movement of seafarers for shore leave, transfer to and from ships, and for welfare purposes. Some Government experts suggested that a port stamp on the document might prove useful in case of abandonment. In addition, many experts indicated that the document should not cover health qualifications and education.

---

[1] ILO: Briefing paper, Consultation Meeting on Improved Security of Seafarers' Identification, Geneva, 9-10 May 2002 (doc. CMISSI/2002/BR).

[2] IMO: Prevention and Suppression of Acts of Terrorism against Shipping, document submitted by the United States, Maritime Safety Committee, 75th Session, London, 2002.

A number of Government experts suggested that the document should not be a substitute for a passport document, but that it should be used without the need for a visa. However, one country noted that it should be independent from any other form of identification. Regarding visas, one expert pointed out that it would be good for the Government experts to ask their immigration departments what they would require to allow the identity document to permit entry without requiring a visa.

Some Government experts raised the case of the Schengen agreement and noted that the impact of such regional agreements should be taken into account. Some experts noted that the document should improve on the current identification documents and seamen's books. Others stressed that the adoption of new provisions relating to seafarers' identification should not be at the cost of a dilution of the aims of ILO Convention No. 108. One expert was concerned that the new Convention should clearly differentiate between seafarers who worked on ocean-going vessels and those who worked within territorial waters of the State.

There was an initial exchange of views among the Government experts as to the format and contents of the new proposed document. It was hinted that a baseline of information in a machine-readable document was necessary, but the document itself could be an electronic card or a visually readable document. The document, they noted, should not be tied to a particular technology so as to permit changes in the system.

The Government experts also indicated the need to consider national regulations on privacy rights. Some experts had expressed reservations regarding biometric templates, in particular regarding compatibility with their national legislation. However, others considered that the use of some biometrics was acceptable. The experts made clear that there was a need for understanding and trust, and in particular there was a need to understand other States' systems to promote confidence. Many experts noted the requirement for some sort of oversight system. Regarding oversight, some experts suggested that practices like the IMO White List, the ICAO audit system, or other current methods should be considered. In addition, one expert said that there should be an information exchange system parallel to a monitoring system, and that the exchange of information for verification should be done on a timely basis.

Although the Government experts did not think that they should bear the cost of the new identity documents, they noted that the matter should be decided upon between the social partners. Some experts likened the costs of the seafarers' identity card with the cost of a passport. One expert pointed out that as a passport must be paid for, an identity document should also be paid for. It was recognized that the cost of collection fees might be more than the expected income.

The full position of the Shipowners' group was submitted in a written submission (see Appendix 3).

The Shipowners supported the development of a new instrument updating the provisions of Convention No. 108 which would address concerns about maritime security, by providing positive and verifiable identification of seafarers, whilst facilitating the movement of international trade.

However, the Shipowners emphasized that it was important not to lose sight of the principal purpose of seafarers' identity documents as embodied in Article 6 of Convention No. 108. This concerned the provision of a means by which seafarers could avoid the need to apply for visas when entering the territory of a member State, whether for the purpose of temporary shore leave or when passing in transit in order to join a ship or to be repatriated. In the interests of international commerce, and the welfare of seafarers — who often spent long periods of time confined on board ships at sea — the Shipowners believed it would be important to ensure that the new instrument retained this important principle and continued to acknowledge the special nature of seafarers' employment.

The Shipowners stated that in the absence of any required identity document, member States should still have discretion to permit entry to seafarers on the basis of passports alone. They also stressed that any new instrument should clearly state that the absence of a seafarer's identity document should not be grounds for port State control detention.

The Shipowners also presented at length the various points contained in their submission, which responded in detail to the specific questions raised by the Office briefing paper.[1]

The Seafarers experts presented their views in a statement submitted by their spokesperson (Appendix 4) and in a group response to the questions contained in the Office briefing paper (Appendix 5). Concerning the advantages of an international seafarers' identity document, the Seafarers experts noted that they thought it would be useful to have an internationally standardized national identity card for seafarers issued by national authorities, rather than an internationally issued one. They said that it would be an advantage if this card acted as a global visa for seafarers and facilitated their travel and shore leave, their passing in transit in order to join a ship, or in being repatriated. They also suggested that it should apply to the port area and that their movements should not be unduly constrained. They added that with the document, a visa should only be required under exceptional circumstances. In addition, they reported that this card should not be used for training/certification, medical or other purposes. They stressed that the cost of these documents should not be borne by the seafarer.

When discussing the information that should be contained in the document, the Seafarers experts emphasized that this should be the same information as that stipulated in Convention No. 108. This information provided for: the seafarer's full name; date and place of birth; nationality; physical characteristics; photograph; signature or, if unable to sign, a thumbprint. The Seafarers experts noted their high level of concern regarding data protection, rights to privacy and human rights, and insisted that they must be safeguarded. They urged that the document should be a machine-readable paper document and they strongly opposed any form of hidden information in the form of magnetic strips or microchips. They were very concerned about the possible inclusion of biometric data, but needed further explanation as to what was being discussed. Furthermore, the Seafarers experts urged that consideration should be given to forms of security such as lamination, colour design, and ultraviolet marks, amongst others.

Regarding verification, the Seafarers experts expressed the view that there should be a national database for checking individual documents and possibly a procedure via the Internet. It was essential that data protection, human rights and the right to privacy were built into such databases and should also be supplemented by a national contact person for verification purposes. They also agreed that details of fraudulent documents could be published. They said that the country of nationality should designate a national focal point which would permit port States or States of transit to rapidly secure additional information by way of verification of documents issued. They reported that they would agree to the establishment of a "White List" equivalent to the system of the IMO STCW, and the auditing systems built into the revised Convention. They could also agree to the ILO setting up an oversight system comparable to the ICAO system, in addition to the regular supervisory mechanisms of the ILO.

The representative of the United Nations High Commissioner for Refugees (UNHCR), in a statement, noted that for refugees, the identification document should contain what was foreseen in the 1951 Convention Relating to the Status of Refugees, and should mention the status of the refugee. She also drew attention to the status of asylum seekers and stateless persons and expressed the opinion that the State which was granting shelter should be the country issuing the identity card and noted as the seafarer's country. The UNHCR representative further pointed out that the 1951 Convention had contained a provision concerning refugee seamen (Article 11) and that this had been introduced at the suggestion of the ILO.

Although not binding, some conclusions could be drawn from the Meeting. The Government, Shipowners and Seafarers experts agreed to the concept of improved seafarers' identification that would permit the seafarers' professional movement and meet security needs. They also agreed that there could be a machine-readable internationally standardized national identity document issued by the seafarers' country of nationality that would provide for the seafarer special immigration status. Furthermore, there was consensus for some sort of oversight by the ILO – however, they were open to the form it should take. From the discus-

[1] op. cit.

sions, there was also a mutual concern for ensuring data protection, human rights and the right to privacy. Although these were some of the common themes addressed, there was still a need for further dialogue and an analysis of the Office questionnaire that would be sent to member States in the near future.

APPENDIX 1

List of participants in the Consultation Meeting on Improved Security of Seafarers' Identification

Government representatives
Représentants des gouvernements
Representantes de los Gobiernos

BAHAMAS

Captain Douglas BELL, Deputy Director (Maritime Affairs), Bahamas Maritime Authority, London

BELGIUM BELGIQUE BÉLGICA

Mme Stéphanie HAUTOT, Conseillère adjointe, Ministère de l'Emploi et du Travail, Bruxelles

BENIN BÉNIN

Mme Rahanatou ANKI DOSSO, Directrice adjointe, Direction de la marine marchande, Cotonou

Adviser/Conseiller technique/Consejero Técnico

Mme Gertrude GAZARD, Administrateur du travail, Ministère du Travail et de la fonction publique, Cotonou

BRAZIL BRÉSIL BRASIL

Sr. Paulo Sérgio DE ALMEIDA, Labor Inspector, Ministéro do Trabalho e Emprego, Rio de Janeiro

CHILE CHILI

Sr. Manuel BARRERA, Agregado Laboral, Misión Permanente de Chile, Ginebra

CHINA CHINE

Mr. Zhang XIAOJIE, Deputy Director, Department of International Cooperation, Ministry of Communications, Beijing

CYPRUS CHYPRE CHIPRE

Captain Andreas A. CONSTANTINOU, Senior Marine Surveyor, Department of Merchant Shipping, Ministry of Communications and Works, Lemesos

Adviser/Conseiller technique/Consejero Técnico

Mr. Chryso DEMETRIOU, Merchant Shipping Officer A, Department of Merchant Shipping, Ministry of Communications and Works

DENMARK DANEMARK DINAMARCA

Ms. Birgit SOLLING OLSEN, Director of Shipping Policy, Danish Maritime Authority, Copenhagen

Advisers/ Conseillers techniques/ Consejeros Técnicos

Mr. Frantz MILLER, Head of Centre for Seafarers and Fishermen, Education and Register of Shipping, Danish Maritime Authority, Copenhagen

Mr. Philippe BAUCHY, Special Adviser, Centre for Seafarers and Fishermen, Education and Register of Shipping, Danish Maritime Authority, Copenhagen

EGYPT EGYPTE EGIPTO

Mme Nadia EL GAZZAR, Conseillère des affaires du travail, Mission permanente de l'Egypte à Genève

FRANCE FRANCIA

M. Jean-Marc SCHINDLER, Administrateur en chef des affaires maritimes, Chargé de mission au Ministère des Affaires Etrangères, Direction des affaires économiques et financières, Paris

Advisers/ Conseillers techniques/ Consejeros Técnicos

M. Alain MOUSSAT, Directeur du travail, Chef du Bureau de l'inspection du travail maritime, Direction des affaires maritimes et des gens de mer, Ministère de l'Equipement, des Transports et du Logement, Paris

M. Xavier MARILL, Administrateur des affaires maritimes, adjoint au Chef du Bureau de l'inspection du travail maritime, Direction des affaires maritimes et des gens de mer, Ministère de l'Equipement, des Transports et du Logement, Paris

M. Fabien JORET, Direction du transport maritime, des ports et du littoral, Bureau des relations internationales, Ministère de l'Equipement, des Transports et du Logement, Paris

GERMANY ALLEMAGNE ALEMANIA

Mr. Valentin KLOTZ, Social Counsellor, Permanent Mission of Germany in Geneva

Adviser/Conseiller technique/Consejero Técnico

Mr. Peter PAEFFGEN, Transport Attaché, Permanent Mission of Germany in Geneva

GREECE GRÈCE GRECIA

Mr. George BOUMPOPOULOS, Head of Seamen's Labour Relations, Commander HCG, Ministry of Mercantile Marine, Seamen's Labour Division, Piraeus

HUNGARY HONGRIE HUNGRIA

Mr. László HORVÁTH, Deputy Permanent Representative, Permanent Mission of Hungary in Geneva

INDIA INDE

Mr. Vinod KUMAR, Assistant Director-General of Shipping, Directorate General of Shipping, Ministry of Shipping, Mumbai

INDONESIA INDONÉSIE

Mr. Ade Padmo SARWONO, First Secretary, Permanent Mission of the Republic of Indonesia in Geneva

ITALY ITALIE ITALIA

Sr. Luigi TRENTO, Direzione Generale della Tutela delle Condizioni di Lavoro, Divisione IIa — Affari Internazionali, Ministero del Lavoro e delle Politiche Sociali, Roma

Advisers/ Conseillers techniques/ Consejeros Técnicos

Sra. Stefania MOLTONI, Ministero delle Infrastrutture e dei Trasporti, Roma

Sr. Guiseppe ALATI, Direzione Generale per la Navigazione e il Trasporto Marittimo, Ministero delle Infrastrutture e dei Trasporti, Roma

JAPAN JAPON JAPÓN

Mr. Takeshi NISHIKAWA, Director, Labour Standards Division, Seafarers Department, Maritime Bureau, Ministry of Land, Infrastructure and Transport, Tokyo

Advisers/ Conseillers techniques/ Consejeros Técnicos

Mr. Shinobu NOGAWA, Professor of Tokyo Gakugei University, Legal Adviser to Ministry of Land, Infrastructure and Transport, Tokyo

Mr. Hidehiro NANAO, First Secretary, Permanent Mission of Japan in Geneva

LIBERIA LIBÉRIA

Mr. Jeremy M.S. SMITH, Maritime Policy Adviser, Liberian International Ship and Corporate Registry, New York

LITHUANIA LITUANIE LITUANIA

Mr. Evaldas ZACHAREVICIUS, Head of Ships' Registrations and Seafarers' Certification Office, Maritime Safety Administration, Klaipeda

MADAGASCAR

Mme Yolande PASEA, Conseillère, Mission permanente de Madagascar à Genève

Adviser/Conseiller technique/Consejero Técnico

Mr. Ernest TATA, Secrétaire d'ambassade, Mission permanente de Madagascar à Genève

MALTA MALTE

Mr. Anthony MANGION, Registrar of Ships, Malta Maritime Authority, Valletta

Adviser/Conseiller technique/Consejero Técnico

Mr. Gordon CUTAJAR, Assistant Registrar, Malta Maritime Authority, Valletta

MEXICO MEXIQUE MÉXICO

Sr. Ángel SUÁREZ VALLEJO, Agregado Técnico de S.C.T, Embajada de México en el Reino Unido, Dirección General de Marina Mercante de la Secretaría de Comunicaciones y Transportes, Londres

MOROCCO MAROC MARRUECOS

Mme Siham BOUASSA, Conseillère, Mission permanente du Maroc à Genève

NETHERLANDS PAYS-BAS PAÍSES BAJOS

Mr. Rob DE BRUÏJN, Senior Policy Adviser, Directorate for Transport and Infrastructure, Ministry of Transport and Waterworks, Maritime Division, The Hague

Adviser/Conseiller technique/Consejero Técnico

Mrs. Ingeborg VAN GASTEREN, Senior Policy Adviser, Ministry of Transport, Public Works and Water Management, Division for Maritime Transport, The Hague

NIGERIA NIGÉRIA

Mr. Wali Mansoon KURAWA, Director, Maritime Services, Federal Ministry of Transport, Abuja

Advisers/ Conseillers techniques/ Consejeros Técnicos

Mr. Ahmed Tijjani RAMALAN, Executive Chairman, Joint Dock Labour Industrial Council, Lagos

Mr. O. Clement ILLOH, Chief Labour Officer, Inspectorate Department, Federal Ministry of Labour and Productivity, Abuja

Mr. Kunle FOLARIN, Director, Joint Dock Labour Industrial Council, Lagos

Mr. Abdullah AHMAD, Permanent Mission of Nigeria in Geneva

NORWAY NORVÈGE NORUEGA

Mr. Georg T. SMEFJELL, Assistant Director-General, Norwegian Maritime Directorate, Oslo

Adviser/Conseiller technique/Consejero Técnico

Mr. Haakon STORHAUG, Adviser, Norwegian Maritime Directorate, Oslo

PANAMA PANAMÁ

Sr. Juan Antonio LEDEZMA, Secretario General, Embajador ante la OIT, Ministerio de Trabajo y Desarrollo Laboral, Panamá

Adviser/Conseiller technique/Consejero Técnico

Sr. Román Ernesto JAÉN RAMÍREZ, Jefe del Departamento de Asuntos Laborales Marítimos, Asesor Legal, Dirección de la Gente de Mar, Autoridad Marítima de Panamá, Panamá

PHILIPPINES FILIPINAS

Mr. Roy SEÑERES, Chairman and Presiding Commissioner, National Labor Relations Commission, Las Piñas, Quezon City

POLAND POLOGNE POLONIA

Mr. Roman LENDZION, Chief Expert, Department of Maritime and Inland Waters Administration, Ministry of Infrastructure, Warsaw

PORTUGAL

Sra. Carlota LEITÃO CORREIA, Coordenadora do Departamento Pessoal do Mar, Instituto Marítimo Portuário, Lisboa

Adviser/Conseiller technique/Consejero Técnico

Sra. Maria Fatima GRILO, Inspecteur responsable, Ministère de l'Administration Interne, Service des étrangers et des frontières, Port de Lisbonne, Lisbonne

RUSSIAN FEDERATION FÉDÉRATION DE RUSSIE FEDERACIÓN DE RUSIA

Mr. Alexander V. KORENNOY, Head of Fleet Personnel and Passport-Visa Division, Personnel and Maritime Training Institutions Department, Ministry of Transport, Moscow

SOUTH AFRICA AFRIQUE DU SUD SUDAFRICA

Ms. Lindiwe LUSENGA, Counsellor – Labour, Permanent Mission of South Africa in Geneva

SPAIN ESPAGNE ESPAÑA

Sra. Yolanda GÓMEZ ECHEVARRÍA, Consejera Técnica de la Subdirección General de Acción Social Marítima, Ministerio de Trabajo y Asuntos Sociales, Madrid

Advisers/ Conseillers techniques/ Consejeros Técnicos

Sra. Elena ARREGUI CALVO, Médico de Sanidad Marítima, Subdirección General de Acción Social Marítima, Madrid

Sr. Julián ABRIL GARCÍA, Jefe del Area de Formación Marítima Profesional, Dirección General de la Marina Mercante, Madrid

SWEDEN SUÈDE SUECIA

Mr. Rolf GOTARE, Principal Administration Officer, Swedish Maritime Administration, Norrköping

SWITZERLAND SUISSE SUIZA

M. Jean Albert HULLIGER, Directeur, Office suisse de la navigation maritime, Berne

THAILAND THAILANDE TAILANDIA

Mr. Nikorndej BALANKURA, First Secretary, Permanent Mission of Thailand in Geneva

TUNISIA TUNISIE TÚNEZ

M. Mokhtar RACHDI, Directeur général, Direction générale de la marine marchande, Ministère du Transport, Tunis

Adviser/Conseiller technique/Consejero Técnico

M. Karem MANSOUR, Directeur des gens de mer, Office de la marine marchande et des ports, Ministère du Transport, Tunis

TURKEY TURQUIE TURQUIA

Mr. Okay KILIC, Maritime Expert, Under-secretariat for Maritime Affairs, Ankara

UNITED KINGDOM ROYAUME-UNI REINO UNIDO

Mr. Paul SADLER, Head of International Liaison Branch, Maritime and Coastguard Agency, Southampton

Advisers/ Conseillers techniques/ Consejeros Técnicos

Mr. Desmond HOWELL, Director, Isle of Man Marine Administration, Douglas

Mr. Chris ELLIS, International Shipping Policy 1B, Department for Transport, Local Government and the Regions, London

Mr. Peter HEATH, Business Manager, Registry of Shipping and Seamen, Cardiff

UNITED STATES ETATS-UNIS ESTADOS UNIDOS

Mr. James J. ZOK, Associate Administrator for Financial Approval and Cargo Preference, United States Department of Transportation, Maritime Administration, Washington, DC

Advisers/ Conseillers techniques/ Consejeros Técnicos

Mr. Edmund T. SOMMER, Chief, Division of General and International Law, United States Maritime Administration, Washington, DC

Mr. Robert S. HAGEN, Labor Attaché, United States Permanent Mission in Geneva

Shipowners' representatives
Représentants des Armateurs
Representantes de los Armadores

Captain Koichi AKATSUKA, General Manager, Japanese Shipowners' Association, London

Mr. Arthur BOWRING, Managing Director, Hong Kong Shipowners' Association, Wanchai

Mr. Joe COX, President, Chamber of Shipping of America, Washington, DC

Mr. Sabyasachi HAJARA, Director, Indian National Shipowners' Association, Director, The Shipping Corporation of India Ltd., Mumbai

Ms. Carla LIMCAOCO, Senior Vice President, Filipino Shipowners' Association, Manila

Mr. Dierk LINDEMANN, Managing Director, German Shipowners' Association, Hamburg

Mr. Bent OVERGAARD, Consultant, Danish Shipowners' Association, Copenhagen

Mr. Tim SPRINGETT, Manager, Marine Personnel, United Kingdom Chamber of Shipping, London

Shipowners' advisers
Conseillers techniques armateurs
Consejeros técnicos de los armadores

Mr. Simon BENNETT, External Relations Adviser, International Shipping Federation, London

Mr. David DEARSLEY (Secretary of the Shipowners' group), Deputy Secretary General, International Shipping Federation, London

Mr. Stan DENO, Director of Operations, International Council of Cruise Lines, Arlington

Mr. Chris HORROCKS, Secretary General, International Shipping Federation, London

Mr. George KOLTSIDOPOULOS, Adviser, Union of Greek Shipowners, Piraeus

Ms. Edith MIDELFART, Attorney at Law, Norwegian Shipowners' Association, Oslo

Mr. Robert C. NORTH, Associate Member, Chamber of Shipping of America, Queenstown

Ms. Angela PLOTT, Vice-President, International Council of Cruise Lines, Arlington

Seafarers' representatives
Représentants des gens de mer
Representantes de la gente de mar

Mr. H. BERLAU, Head of Maritime Section, Specialarbejderforbund i Danmark (SiD), Copenhagen

Mr. Thulani C. DLAMINI, Collective Bargaining Secretary, South African Transport and Allied Workers' Union (SATAWU), Johannesburg

Sr. Severino ALMEIDA, Presidente Confederação Nacional dos Trabalhadores em Transportes Aquaviário e Aéreo, na Pesca e nos Portos (CONTTMAF), Rio de Janeiro

Mr. Jose Raul V. LAMUG, Assistant to the President, Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP)

Mr. Brian ORRELL, General Secretary, National Union of Marine, Aviation and Shipping Transport Officers (NUMAST), London

Mr. Abdulgani SERANG, General Secretary, National Union of Seafarers of India, Mumbai

Mr. Thomas TAY, General Secretary, Singapore Maritime Officers' Union (SMOU), Singapore

Mr. Agapios TSELENTIS, Director, International Department, Pan-Hellenic Seamen's Federation (PNO), Piraeus

Seafarers' advisers
Conseillers techniques gens de mer
Consejeros técnicos de la gente de mar

Mr. M. DICKINSON, Executive Officer, NUMAST, London

Mr. Bill EGLINTON, Director of Training, Seafarers' International Union of North America, Piney Point

Ms. Maria Fe L. UGTO, Welfare Services Administrator, Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP), Manila

Mr. Jon WHITLOW (Secretary of the Seafarers' group), Acting Secretary, Seafarers Section, International Transport Workers' Federation (ITF), London

Representatives of the United Nations, specialized agencies
and other official international organizations
Représentants des Nations Unies, des institutions spécialisées
et d'autres organisations internationales officielles
Representantes de las Naciones Unidas, de los Organismos Especializados
y de otras Organizaciones Internacionales Oficiales

European Union (EU)
Union européenne
Unión Europea

Ms. Christina VARTSOS TZANNETAKIS, Official Administrator, Brussels

International Maritime Organization (IMO)
Organisation Maritime Internationale
Organización Marítima Internacional

Mr. Andrew WINBOW, Head, STCW and Human Element Section, Maritime Safety Division, International Maritime Organization, London

United Nations High Commissioner for Refugees
Haut commissariat des Nations Unies pour les réfugiés
Oficina del Alto Comisionado de las Naciones Unidas para los Refugiados

Ms. Grainne O'HARA, Legal Officer, Protection Policy and Legal Advice Section, Geneva

Representatives of non-governmental international organizations
Représentants d'organisations internationales non gouvernementales
Representantes de Organizaciones Internacionales no Gubernamentales

International Christian Maritime Association
Association maritime chrétienne internationale
Asociación Marítima Cristiana Internacional

Sr. Domingo GONZÁLEZ JOYANES, Asociación Marítima Cristiana Internacional, Barcelona

Mr. Douglas STEVENSON, Director, Center for Seafarers' Rights, Seamen's Church Institute (SCI/CSR), New York

International Confederation of Free Trade Unions (ICFTU)
Confédération internationale des syndicats libres
Confederación Internacional de Organizaciones Sindicales Libres

Ms. Anna BIONDI, Assistant Director, ICFTU, Geneva

INTERNATIONAL MARITIME ORGANIZATION
MARITIME SAFETY COMMITTEE
75th session
Agenda item 17

E
MSC 75/17/34
12 April 2002
Original: ENGLISH

PREVENTION AND SUPPRESSION OF ACTS OF TERRORISM AGAINST SHIPPING

Seafarer identification

Submitted by the United States

SUMMARY

Executive summary: This document provides the United States proposal for seafarer identification to improve maritime security
Action to be taken: Paragraph 6
Related documents: MSC 75/17/1

Introduction

1 The intersessional meeting of the MSC Working Group on Maritime Security (ISWG), which met from 11-15 February 2002, considered a comprehensive set of proposals to improve maritime security submitted by the United States. One of these proposals was to include in SOLAS a requirement for seafarer identification verification.

2 The ISWG agreed that there was a need for an updated seafarer identification document, and that action would be sought through the revision of the International Labor Organization Seafarers' Identity Documents Convention (ILO), 1958 (No. 108). Based on this agreement, the ISWG requested the Secretary General to write to the Director-General of the ILO requesting early action on this matter (Plan A). However, the ISWG agreed that it should have a Plan B which would incorporate text for Seafarer Identification Documents into Chapter XI of SOLAS, in case Plan A failed.

3 The United States understands that the ILO Governing Body at its meeting in March agreed to take on the important issue on an expedited basis. The U.S. reaffirms its desire to see tighter regulations and requirements for seafarers identity document, as an important part of the overall improvement in maritime security practices. The U.S. believes that the seafarer identity document requirements must accomplish the following goals:

.1 Positive and Verifiable identification — "Positive" means the document holder is the person whom the document was issued to. "Verifiable" means the validation of the authenticity of the document by a source.

.2 Uniformity —The development of a universal standard to ensure consistent application.

.3 Acceptability — The development of a standard that is convenient, user-friendly, cost effective and does not impair commerce.

.4 Reliability — The development of a standard that works consistently in a practical environment.

.5 Security — The development of a standard that ensures that the system is resistant to compromise.

.6 Interoperability — The development of a standard that allows for the exchange of information among Member States to allow for verification and validation.

4 Furthermore, the United States believes that to accomplish the goals outlined in paragraph 3, the seafarers identity document must have the following elements contained in the document or in the system supporting the document:

.1 digital photograph;

.2 holder's signature;

.3 issuing authority;

.4 proof of nationality;

.5 positive identification of the mariner's qualifications;

.6 permission to enter other countries; and

.7 biometric templates.

5 In addition, the United States also believes the seafarer's identification system must have the capability to gather and exchange information among Member States to assure entry and exit of seafarers is only allowed to those with valid and properly issued documents. In order to facilitate rapid verification of seafarers and their documents on a 24-hour basis, the system must be capable of immediate data access. This data would only contain a limited number of elements in consideration of privacy and system performance issues. It is suggested that the biometric template, developed under the International Organization for Standardization (ISO), could be used in conjunction with elements such as a reference number, seafarer name, card number, and issuing authority. The system should also have the ability to search on this data and prevent duplicate claimed credential information, provide the ability to screen data to identify threats and flag these entries as well as enable off-line card verification.

Actions requested of the Committee

6 The Committee is invited to consider these proposals when considering seafarer identification.

Appendix 3

Submission by the International Shipping Federation (ISF) to the Consultation Meeting on Improved Security of Seafarers' Identification, International Labour Office (Geneva, 9-10 May 2002)

ISF acknowledges the possibility that a ship could present a terrorist threat, and can therefore support the concept of developing a new ILO instrument to update the provisions of the existing Seafarers' Identity Documents Convention, 1958 (No. 108), thereby both addressing current concerns about maritime security and facilitating the movement of legitimate international trade.

However, it is important not to lose sight of the principal purpose of seafarers' identity documents as embodied in Article 6 of Convention No. 108. This concerns the provision of a means by which seafarers can avoid the need to apply for visas when entering the territory of a member State, whether for the purpose of temporary shore leave or when passing in transit in order to join a ship or to be repatriated. In the interests of international commerce, and the welfare of seafarers, who often spend long periods of time confined on board ships at sea, it will be important to ensure that any new instrument retains this important principle and continues to acknowledge the special nature of seafarers' employment.

To achieve the purpose of the exercise, it will also be important for member States to acknowledge that any new instrument seeking to address the issue of identity documents in the context of maritime security will be unlikely to achieve its objective unless it is ratified by all of the major maritime nations, including those that have not ratified the current Convention No. 108.

Seafarers are employed from virtually every country in the world. In principle, ISF agrees that it would be desirable if every seafarer trading internationally were to hold an identity document complying with an agreed international format. However, it has to be recognized that some countries may elect not to become parties to any new instrument. In the absence of the required document, member States should still have discretion to permit entry on the basis of passports alone. Moreover, any new instrument should clearly state that the absence of a seafarers' identity document should not be grounds for port state control detention.

In order to facilitate discussion, ISF also wishes to comment on the questions raised under paragraph 13 of the briefing paper prepared by the ILO.

(a) What are the advantages of an international seafarers' identity document?

Passports or national identity documents do not always state the profession of the holder. An obvious advantage of a seafarers' identity document is that it provides proof that the holder is a seafarer.

As stated above, the major current advantage of holding a seafarers' identity document (at least with regard to those member States that follow the principle embodied in Article 6 of Convention No. 108) is that it removes the need for seafarers to apply for visas for the purpose of shore leave or transit to and from their ships.

The majority of ships follow an irregular trading pattern, and ports of call during a seafarer's tour of duty are often unknown when he or she joins a ship. Seafarers may visit a large number of countries, and it is often impractical to obtain visas in advance.

Seafarers' identity documents can also offer seafarers additional advantages with regard to helpful treatment at embassies and consulates, airports, customs and port authorities, as well as access to health care in foreign countries and access to seafarers' welfare services.

At present, however, the exact format of seafarers' identity documents is determined by the competent authorities in member States. An international document, which followed a uniform

format regardless of the country of issue, would clearly assist recognition and acceptance of seafarers' identity documents by the relevant authorities around the world. It would also be of benefit to employers who commonly employ seafarers of many different nationalities.

(b) What purposes would an international seafarers' identity document serve? Should the identity document be used for training/certification, medical or other purposes?

If a new ILO instrument is developed, it would presumably have two main purposes:

— to identify the holder as a legitimate seafarer who should be exempt from normal visa requirements because of the nature of his or her employment; and

— to identify holders for security purposes, given that seafarers clearly need to have access to what may be regarded as security-sensitive areas such as ports and terminals.

It might be possible to use such documents to contain information concerning seafarers' qualifications and medical fitness, which are currently contained in certificates issued in accordance with the IMO STCW Convention and the Medical Examination (Seafarers) Convention, 1946 (No. 73), especially if any document were developed in a machine-readable format. However, ISF believes that this should only be an optional possibility in any new instrument. A large number of different national agencies might be involved, and the inclusion of such information on a mandatory basis could delay the introduction of identity documents that address immediate concerns about security and proof of identity. Moreover, information concerning qualifications may frequently need to be updated.

In the longer term, however, provided it were technologically and administratively feasible, there might be advantages in combining all the various information which seafarers are required to carry into a single document. It is therefore suggested that the technical specifications of any standardized machine-readable document that might be developed, and of the equipment used for checking it, should be such that additional information such as qualifications could be included if so desired by member States.

(c) What information should be included in the identity document?

With reference to the proposals made by the United States to the 75th session of the IMO Maritime Safety Committee, ISF could support the inclusion of the following information, provided that it is technologically and administratively feasible and acceptable to other member States:

— digital photograph;

— holders' signature;

— issuing authority; and

— statement of nationality.

With regard to the proposal to include positive identification of seafarers' qualifications, for the reasons stated above, this should only be an optional requirement. It should also be borne in mind that under the IMO STCW Convention administrations are not currently required to issue certificates of competence to non-watchkeeping ratings or personnel such as hotel and catering staff on passenger ships, and they are not required to maintain records of the qualifications held by such personnel.

With regard to the proposal that data concerning "permission to enter other countries" should be included, ISF would be grateful for clarification of what this would involve. However, if it simply involves confirmation that the seafarer is permitted to visit foreign nations and is entitled to leave his or her home country, this could be supported.

In principle, ISF has no objection to the inclusion of biometric templates that may assist the positive verification of the holder's identity. However, it will be important to take account of any concerns that member States may have with regard to human rights, data protection laws and difficulties concerning practical implementation. This is of particular concern to shipping

companies that could be penalized in the event that the inclusion of particular biometric data made it impossible for certain member States to ratify any new instrument.

(d) What information should be mandatory? What information should be optional?

As stated above, the inclusion of information concerning seafarers' qualifications and medical certificates should be optional.

(e) In what circumstances should it be possible for a visa to be required, in addition to an identity document meeting the abovementioned criteria, as a condition for entry for a purpose mentioned under point (b) above?

In principle, for the reasons outlined above, if a new instrument is adopted and seafarers hold documents meeting internationally agreed criteria, a visa should not be required for the purposes currently mentioned in Article 6 of Convention No. 108. This principle should be clearly stated in any new instrument.

However, in the event that the issue of visas to seafarers is insisted on, the new ILO instrument should clearly determine the manner in which this should be done by any member State that has ratified the instrument.

It is suggested that upon presentation of (or transmission of data contained on) a seafarers' identity document, any such visas must be issued immediately, either on or shortly before arrival.

One possibility is that a visa, i.e. permission to enter a member State, is issued electronically and recorded on the identity document itself. Alternatively, it might be produced electronically using data contained on the identity document. Crew list visas, whereby permission to enter a member State is granted to an entire ship's crew following transmission of a single document to the immigration authorities, is also a possibility.

However, it is important that the issue of such visas should not involve any financial cost to the seafarer or the shipping company. In view of the basic principle that seafarers should not normally be required to be issued with visas, and the vital role that shipping plays in world trade, any compromise of this principle should be for security reasons only and should not be permitted to be used as a revenue-making opportunity.

(f) Should the issuing authority be an international authority or a national authority?

ISF believes that the issuing authority must be the relevant national authority in the seafarer's country of residence, which will normally be the same as the country that issues the seafarer's passport (often this will be different from the flag State of the ship on which the seafarer is serving).

The national authorities in the labour supply country will clearly be in the best position to establish and verify the holder's identity and nationality, whether through passport and national identity document records, social security and medical records, electoral roles or registrations of births. Moreover, the authorities concerned should already have procedures in place for doing this. Given that a number of different agencies might be involved, the competent authority in the labour supply state will be in the best position to coordinate this process.

Apart from the financial and political implications, ISF can foresee formidable administrative problems in the event that an intergovernmental agency had responsibility for issuing identity documents since it would be dependent on national authorities to verify the identity documents in excess of a million seafarers. However, it would be advantageous if the documents follow a standard international format agreed by a body such as the ILO. The ILO could also have a useful role in helping to ensure that member States issue identity documents in accordance with criteria and procedures agreed internationally.

(g) What types of positive and verifiable information should be included in the document?

See our comments under question (c).

(h) What format should the identity document take? Regardless of the issuing authority, should the format meet international standards? If so which?

ISF is open-minded as to the exact format that the documents should take. Much will clearly depend on the technological solutions available. But it will be important to ensure that it will be relatively easy for member States to implement the requirements, both with regard to the production of identity documents and installation of the equipment needed to read and verify the information contained on them. Proper account must also be taken of issues such as durability.

As already stated, it will be desirable if all identity documents conform to an internationally agreed standard which should be referred to in the new ILO instrument, though perhaps developed separately. Apart from addressing security concerns, it must be possible to read the information contained on the documents at ports and airports around the world.

At the time of preparing this paper, ISF has insufficient information to comment on existing international standards for identity documents such as those developed (or under development) by bodies such as ISO and ICAO. However, since one of the purposes of seafarers' identity documents is to facilitate easy movement though airports, it would seem logical to consider any standards developed by ICAO for identifying airline staff.

(i) What monitoring mechanism should be introduced to ensure the credibility of the system?

If any new instrument is to succeed in addressing concerns about security, some form of external evaluation of the procedures established by member States to issue identity documents, would seem to be necessary.

Such a monitoring system, whether coordinated by the ILO or otherwise, would necessitate the involvement of experts in data security and immigration procedures, and might have to overcome sensitivities amongst member States with regard to issues of national sovereignty.

* * *

ISF hopes that the above comments are helpful, and looks forward to participating in the Consultation Meeting.

Appendix 4

Intervention by the spokesperson of the Seafarers' group, Mr. Brian Orrell

1. On the question of "whether the document should be a passport" we have noted the information provided by the Office in respect of the General Survey of Convention No. 108 which states clearly that the seafarers' identity document is not a passport. We share that view.

We wish the identity document to be a global visa for the purposes of joining and leaving ship and especially for shore leave and welfare needs.

2. Any costs arising from the provision of the identity documents should not be borne by the seafarer. The identity document is not a personal travel document or the national seafarer book referred to in Article 4(a) of the Recruitment and Placement of Seafarers Convention, 1996 (No. 179).

The Seafarers emphasize that another reason for ensuring that the national authority issue the document is that it would remove the ability of some flag States charging seafarers for such documents.

For there to be confidence in the system it will need to be specified that only one seafarer identity document is required to be carried and this be the one issued by the country of nationality.

3. We believe we should follow some of the positives experiences of the STCW. We need to ensure its verifiability; we therefore recommend having due regard to data protection, rights to privacy and human rights; and that the database should be based in the country of nationality and not be transferable. However, individual verifications should be permitted as well as there being a listing of any fraudulently issued documents.

In addition the country of nationality should designate a national focal point which would allow port States or states of transit to rapidly secure additional information by way of verification of documents issued.

We would agree to the establishment of a "White List" equivalent to the system of the IMO STCW, and the auditing systems built into the revised STCW.

Further, we could agree to the ILO being able to set up an oversight system comparable to the ICAO system.

4. The Seafarers believe that only the information required in the Seafarers' Identity Documents Convention, 1958 (No. 108), is necessary within the document.

Concerns are held on the availability of high technology in some countries, and the resources available to use it in some countries where the technology is available.

As said earlier we believe that only information for positive verifiable identification should be used.

The Office should investigate, as part of its questionnaire, the issue of availability and feasibility of digital photography and fingerprinting, etc.

5. The Seafarers agree that the format of the identity document should be internationally formatted and believe that it should take the form of a machine-readable paper document, with no data contained in chips or magnetic strips. We agree that consideration should be given to forms of security such as lamination, colour design, ultraviolet marks, etc., and the use of this could be investigated through the questionnaire.

APPENDIX 5

The Seafarers' group response to the points for discussion raised in the Office briefing paper

(a) What are the advantages of an international seafarers' identity document? (As opposed to a national identity card or passport, in particular.)

None. We see advantages in an internationally standardized national identity card for seafarers which acts generally as a global visa for seafarers and facilitating their travel and shore leave and passing in transit in order to join a ship in transit or being repatriated.

(b) What purpose(s) would an international seafarers' identity document serve? (At present, Convention No. 108 recognizes: shore leave; joining/transferring to another ship; transit to join a ship in another country; transit for repatriation.) Should the identity document be used for training/certification, medical or other purposes?

None. No.

(c) What information should be included in the identity document?

As stipulated in the ILO's Seafarers' Identity Documents Convention, 1958 (No. 108). The questionnaire the Office will issue should determine the technological resources available in member States. We remain open to consider biometric questions as we will have a presentation from the United States on what it means but we have grave concerns.

(d) What information should be mandatory? What information should be optional?

As stipulated in Convention No. 108. None.

National database for checking individual documents available through the Internet without breaking national data protection and the right to privacy laws which take into account applicable human rights provisions, supplemented by a national contact person, etc., and the publication of fraudulent document details, etc.

(e) In what circumstances (if any) should it be possible for a visa to be required, in addition to an identity document meeting the abovementioned criteria, as a condition for entry for a purpose mentioned under point (b) above?

Only in exceptional circumstances.

(f) Should the issuing authority be an international authority or a national authority? What would be the advantages/disadvantages of either option?

National. There are no advantages to an international authority. National systems are generally in place already but confidence needs to be built on the latter and they need standardizing.

Await UNHCR presentation regarding stateless persons.

(g) What type of positive, verifiable identification should be included in the document? (For guidance, Convention No. 108 at present provides for: full name; date and place of birth; nationality; physical characteristics; photograph; signature or, if unable to sign, thumbprint.)

As per Convention No. 108. Suffice to prove that the person is who they say they are.

Prepared to keep an open mind pending results of survey to reveal resources at the disposal of governments from the major labour-supplying and less developed countries.

(h) What format should the identity document take (e.g., machine-readable paper document, "smart card", etc.)? Irrespective of the issuing authority, should the format meet international standards? If so, which?

Machine-readable paper document with no hidden information (i.e. bar codes and magnetic strips) issued by the country of nationality or in exceptional cases the state of residence and nationally issued.

(i) What monitoring mechanism should be introduced to ensure the credibility of the system?

Keeping in mind the regular ILO supervisory mechanisms, we should study the following examples of different approaches adopted by other United Nations specialized agencies:

— STCW-type "White List";

— STCW-type audits;

— ICAO-type audits.

Would be interested in receiving information as to what the ICAO identity document standards were.

Price: 15.00 Swiss francs

ISBN 92-2-112885-7

If this address is wrong, please return this sheet to the sender or, at least, the part bearing the address.

Pour tout changement d'adresse, prière de renvoyer à l'expéditeur cette feuille ou, du moins, la partie comportant l'adresse.

Sírvase indicar el cambio de dirección del destinatario y enviar esta hoja al remitente, o al menos la parte en que está escrita la dirección.

RETOUR / RETURN / DEVOLUCION

Refusé / Refused / Rehusado

Non réclamé / Unclaimed / No reclamado

Parti / Gone away / Ausente

Inconnu / Unknown / Desconocido

Décédé / Deceased / Fallecido

Adresse incorrecte / Incorrect address / Dirección incorrecta

INTERNATIONAL LABOUR OFFICE
BUREAU INTERNATIONAL DU TRAVAIL
OFICINA INTERNACIONAL DEL TRABAJO
CH-1211 GENÈVE 22

P. P.
1211 GENÈVE 22